Supreme Court, U.S.
FILED
JUN 9
CLERK

No. 98-8384

In The

Supreme Court of the United States

TERRY WILLIAMS,

Petitioner,

v.

JOHN TAYLOR, Warden, Sussex 1 State Prison,

Respondent.

On Writ Of Certiorari To The United States Court Of Appeals For The Fourth Circuit

JOINT APPENDIX
VOLUME III, PAGES 523 TO 652
LODGING OF EXHIBITS FROM STATE HABEAS HEARING

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COMMONWEALTH of VIRGINIA

PATRICIA L. WEST
DIRECTOR

DEPARTMENT OF YOUTH AND FAMILY SERVICES
Reception & Diagnostic Center For Children

DONALD W. DRISCOLL
SUPERINTENDENT

1601 BON AIR ROAD
BON AIR VIRGINIA 23235
TEL 323-2600
FAX 323-2312

March 15, 1995

Ms. Linda J. Tarlow
O'Donoghue & O'Donoghue
4748 Wisconsin Avenue, N.W.
Washington, D.C. 20016

Dear Mr. Tarlow:

Enclosed is the entire juvenile file that is on microfilm for Terry Williams here at the Reception and Diagnostic Center. Because of the age of the file, the copies are not very clear.

If we can be of any further assistance, please let me know.

Sincerely,

Beverley Tackett
Secretary Senior

Enc.

PETITIONER'S EXHIBIT 8

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

MOBILE PSYCHIATRIC CLINIC

PSYCHOLOGICAL REPORT
(Group Screening Testing)

Name: Williams, Terry Race: Negro Sex: Male

Birthdate: 9/11/53 Age: 12-3 Education: 6th

Date of Group Testing: 12/26/67

Examining Psychologist: Miller

C.C.H. Caseworker: Moody

As the routine group screening procedure for all minors committed to the Child Care Bureau the following tests were administered: Revised Beta Examination, Wide Range Achievement Test (Reading Sub-test), Bender-Visual Motor Gestalt Test, and House-Tree-Person Drawing Test. This child obtained a Revised Beta I.Q. of 69 and a WRAT reading grade score of 3.3. Together with the available social history this group battery yielded the following impressions for screening purposes:

Although Terry may be intellectually limited, his test results are not entirely consistent with defective intelligence. The possibility of a serious emotional disturbance and/or organicity cannot be ruled out, and retesting is recommended. Although there is no evidence of a visual problem in his folder, it was noticed that when asked to read, Terry held the WRAT only about 3-5 inches from his face. He also complained that he had difficulty reading the numbers on one of the Beta subtests. This problem should be investigated.

BEAUMONT SCHOOL FOR BOYS
Beaumont, Virginia

VOCATIONAL EVALUATION SUMMARY SHEET

Name: Terry (Nigh) Williams Case #: _____ Date: February 17, 1971

INITIAL INTERVIEW:
Terry is a 15½ year old, slender Negro youth from Danville, Virginia. During the interview, he was very quiet and little or nothing was accomplished. He signed a Vocational Rehabilitation Application and was placed in Status 02.

STATED INTEREST:
After a few hours of thinking about vocational training, he managed to come up with these choices: woodwork, plumbing, and custodial work. No interest was expressed in academic school.

SOCIAL INTERACTION:
Terry seems to relate with his peers, however, he continued to be noncommunicable to this authority figure. I don't think it's resentment, it's more unawareness.

INTELLIGENCE:
In my opinion, Terry is functioning in the low dull range of intelligence. He will learn limited vocational training.

STABILITY:
He seems to be withdrawn at the present. However, he knows the ropes.

WORK HABITS:
Terry has very good work habits and tolerance but there were limited abilities displayed. This kid will have to start at the bottom in any type of training.

QUALITY OF WORK:
No outstanding qualities observed.

WORK SAMPLES PERFORMED IN EVALUATION:
(1) Woodwork: he constructed such joints as the Dado, two Cross Laps, very poorly put together.
(2) Custodial: sweeping the floor; he was very slow.

TESTS ADMINISTERED:
(1) Wide Range Achievement Test scoring 4.4 (2-16-71).
(2) Woodwork related course assignment scoring 12 - no effort put forth.

AREAS EVALUATED IN:
(1) Woodwork. Rated Poor.
(2) Plumbing. Rated Poor.
(3) Custodian. Possibility.

RECOMMENDATIONS:
(1) CUSTODIAL SCHOOL (GENERAL WORK),
(2) INSTITUTIONAL WORK.

_____
Director of Vocational Evaluation

[redacted]

JOHN H. STYLE PUBLIC SCHOOL
OF
HANOVER SCHOOL FOR BOYS
HANOVER, VIRGINIA

TRANSCRIPT OF RECORD

This is to certify that Jerry Williams has attended the Academic Department of the Hanover School for Boys, Hanover, Virginia from January 7, 1968 to June 14, 1968. Jerry Williams was enrolled in grade 5th- Community.

ACADEMIC REPORT		TERM REPORT
	Remedial Program Basic II	
Subjects:		
Language Arts		C
Mathematics		C+
Social Studies		C+
History		D
Science		D
Industrial Arts		B
Music		
Health & Physical Education		B-
Days Present	1/7/68 - 6/14/68 = 77 7/1/68 - 8/14/68 = 35	112
Days Absent		

CHARACTER AND PERSONALITY GROWTH

Respect for Authority	C+
Respect for the Rights of Others	C+
Respect for Property	C-
Dependability	C-
Effort	D
Attention [illegible]	C-
Work [illegible]	C+
Making Wise Use of Free Time	F

REMARKS Terry Williams' social behavior has shown improvement, while his academic achievement has somewhat regressed. One day he can carry out any assignment, whereas the following day, he may lapse into daydreaming. This puzzling transition from one extreme to the other was evidenced in his California Reading Achievement Test score of 1.1, administered early in July, 1968. These results indicated that he put forth no effort and, therefore, fell far below his potential.

Socially, Terry has a normal peer and adult relationship for a boy of his age. He is somewhat talkative and active, but creates no special disturbances. Terry responds favorably to correction and seldom reacts in a hostile manner.

Terry is presently enrolled in our summer program. His progress remains the same.

Our plan for Terry is to continue working with him in our Remedial Program. Special Education is definitely recommended for this youth.

RECITATION PERIODS ARE 45 MINUTES IN LENGTH. PASSING GRADE OF THE SCHOOL IS D.

THE MARKING SYSTEM IS AS FOLLOWS:

A- OUTSTANDING
B- ABOVE AVERAGE
C- AVERAGE
D- BELOW AVERAGE
F- UNSATISFACTORY

DATE August 19, 1968

J. J. Stanley
EDUCATION SUPERVISOR

SCHOOL DISTRICT

PRE-HEARING INVESTIGATION

DANVILLE JUVENILE COURT

DALLAS/69

NAME: Terry Williams

ADDRESS: 195 White Street

SEX: Male

BIRTHDATE: September 11, 1955

RACE: Negro

FATHER: Noah Walker Williams

MOTHER: Lula Snipe Williams

ADDRESS: 195 White Street

File #1341

On the morning of February 26, 1957, when Mr. M. T. Bennett of the City Sergeant's Office went to the home of Noah and Lula Williams on Beauregard Street to summon them for Corporation Court, he found that they were not at home, but two of the children were out in the yard playing. It was raining, and the youngest child did not have on shoes. The oldest child, who happened to be about eight years old, told Mr. Bennett that his mother and father had gone to work. Later that same day, Mr. Bennett went back to the house and found both Lula and Noah sitting on the porch. It was evident that they had been drinking and were in such a state that they could not talk plain. Noah told Mr. Bennett that someone had given his children some whiskey to drink, and he was afraid that they were going to die. He said that he had called the doctor two different times, but he would not come because Noah did not have any money. Mr. Bennett went into the front room with Noah, where he found that the youngest children were asleep on the sofa. Mr. Bennett tried to arouse Noah Jr., who is next to the youngest, but he could not awakened. Mr. Bennett also though that the child was dying.

Mr. Bennett came directly to the Health Department and reported the condition of the Williams children to Dr. Ferguson, who in turn sent Nurse Allen to the Williams' home. When Nurse Allen went in, she discovered that in addition to the two children who were asleep on the sofa, there were two more children in the bedroom. These were passed out from drinking some intoxicating beverage. Nurse Allen came back and reported this to the Juvenile Court.

Officer T. C. Talley, Jr. of the Danville Police Department went to the Williams home with Mrs. Kathryn Turner, Probation Officer. Lula and Noah were sitting on the front porch and were in such a drunken state, it was almost impossible for them to get up. They staggered into the house to where the children were asleep. Terry, age 1, and Noah Jr., age 3, were asleep on the sofa. There was an odor of alcohol on the breath of Noah, Jr. It was impossible to awake Noah Jr., at first, but he later woke up for a few minutes. Olander, age 4, was walking around at that time. Oliver had just awakened and was very sick. She said she was hungry and had been drinking whiskey. Ohair was completely passed out and never could be awakened. He did not have on any clothes, but was covered with a sheet.

The home was a complete wreck. There were several men and one woman visiting in the home, but none of them had been drinking. There were several places on the floor where someone had had a bowel movement. Urine was standing in several places in the bedrooms. There were dirty dishes scattered over the kitchen, and it was impossible to step any place on the kitchen floor where there was no trash. The only food in the house was a pan of corn-bread, and this looked as if someone had been playing in it and had scattered it all over the floor. The children were all dirty and none of them had on under-pants. Noah and Lula were so intoxicated, they could not find any clothes for the children, nor were they able to put the clothes on them. There was stuffed pickle scattered on the floor in the front bedroom.

Noah and Lula were put in jail, each having five charges of neglect placed against them. The children had to be put in Winslow Hospital, as four of them, by that time, were definitely under the influence of whiskey. When Dr. Harvey examined them, he found that they had all been drinking bootleg whiskey. They were all hungry and very happy to be given milk, even the baby drank a pint of milk before stopping. Oliver said that they had not had any food all day. Ohair was still so drunk he could not talk.

The next day, Oliver said that her father had sent Ohair out in the back yard to get a bottle of whiskey. He brought it in the house and said Ohair passed the bottle around to the children, while their mother and father watched them. Ohair said that they had drunk whiskey before.

The five Williams children were removed from the hospital on February 27, and on this date, were adjudged neglected and dependent children on Petitions signed by Officer Talley. They were placed in the temporary custody of the Court, until a permanent custody could be determined. They were placed in a Court Boarding Home.

On March 1, 1957, Noah and Lula Williams were tried in the Juvenile Court for neglect of their five children. They were both found to be guilty on each charge and Noah was fined a total of $500.00 and was given a total of two and one half years on the City Farm. Lula was fined a total of $250.00 and given a total of fifteen months in jail. They both appealed these cases and are scheduled for trial in the May Term of the Corporation Court.

On March 30, 1957, Mrs. Kathryn Turner, Probation Officer for the Danville Juvenile and Domestic Relations Court, swore to Petitions on the five Williams children, in which she asked that the children be committed to the Danville Social Service Bureau, as the Court has been unable to work out a satisfactory plan for them. Bessie Lee Surgeon, sister of Noah Williams, is most anxious to have the children stay in her home; however, she only has a two room apartment. She has been keeping the children for Noah and Lula and believes that they will not financially help her and she does not believe that she can completely support them. This is the only plan Noah and Lul can offer for their children; they would like for them to stay in Bessie Lee's home.

DISPOSITION: 4/4/57—On this date, all five of the Williams children were placed in the custody of the Social Service Bureau.

On April 13, 1959, The children were returned to the custody of their parents from the Social Service Bureau.

May 24, 1955, a complaint was received stating that Terry Williams, age 8, had done malicious damage, to wit: broke 25 window glasses and made a mess inside the house by emptying contents of dresser and cabinets in floor and breaking lamps. This was the home of John Hodge of 142 New Street. This complaint was handled unofficially by P. O. who talked with the Williams family. Mr. Williams stated that he was either willing to place the broken window panes or would give Mr. Hodge the money to have it done. Contacted Mr. Hodge's wife and asked that she have her husband phone the Court if he and Noah worked things out agreeably. No further information was received so it was assumed that they had reached an agreement.

9,1966
T A petition was signed by Police Officer Donald L. Goss charging Terry with the
N: larceny of a bicycle, property of Curtis Turner, valued at $40.00. Curtis Turner's name was given on the petition, however, the bicycle belongs to his son, Roger Dale Turner, 1721 Aspen Street.

Several attempts were made to talk with Terry and his parents. Two visits were made to the home but no one was there.

Terry is now living with his parents, Noah and Lula Williams at 195 White Street in Danville, Virginia.

SITION: On November 10, 1966, Terry was placed on probation to the Court.

Terry was not required to report to the office on any regular basis, as it was felt due to his age that it would be best for him not to come across town alone and since both his parents worked a better plan would be for the P. O. to visit the home and keep in close touch with him and the family.

Terry did not seem to understand probation and although he is always a very appealing likable fellow he never actually responds to any conversation or seems to understand right from wrong to any great degree. His parents always try to be cooperative and they say that they try to keep close touch on Terry but he just seems to slip away and go about the neighborhood doing as he pleases.

ENT June 6, 1967, a petition was signed charging Terry with disorderly conduct. On
N: June 16, 1967, he was continued on probation. Also he was charged on the same date with malicious damage to the home of August Farmer in that he threw rocks through the window and hit her children on the head. Terry was continued on probation.

On June 1, 1967, there were two charges of aiding and abetting in the larceny of one bicycle, the property of Ruth Empress, valued at $15.00, the other bicycle being the property of Erma Gray. There were other boys involved in these two larcenies.

On July 11, 1967, Terry was committed to the State Department on these two offenses.

PRESENT PROBLEM: Petitions were signed charging Terry Williams on June 12, 1967, with breaking and entering a store building in the night and the larceny of $75.00 in U. S. coin, the property of Tom Newman. He was further charged with breaking and entering the home of Susan Clark and the larceny of one box of doughnuts, one package of luncheon meat and twenty-five pennies.

PRESENT FAMILY HISTORY: Terry Williams was born in Danville, Virginia, September 11, 1955. He is one of eleven children.

FATHER: Terry is the son of Noah Williams, Sr., who was born in 1910. Noah is a native of Greensboro, North Carolina. His parents are deceased. There are two sisters, Bessie, who lives in Danville, Virginia, on Swanson Street and, Mary, who lives in Greensboro, North Carolina. According to Noah and his wife he has no service record. He attended school through the fifth grade. Noah has no particula religious affiliation. At one time it was generally known in the City that Noah wa a bootlegger, however, there has been no recent complaint of this in the past few years. Noah is now regularly employed by the Danville School Board as custodian a the Westmoreland Grammer School. Noah has always been very cooperative with the Court. He shows a genuine interest in his children but seems limited in his abili to cope with their problems perhaps due to having such a large family. He works hard and although he is known to drink it is thought his drinking is not as excessi as it was in previous years. He shows great concern over his family when they get involved in trouble. Due to his limited education he is not able to secure adequate employment to earn income to meet the needs of the family. However, it h never been known for him to ask for any type of public assistance.

MOTHER: Lula Snipes Williams, age 42 is a native of Caswell County, North Carolin Both of her parents are living. Her father lives in Greensboro and her mother som where in North Carolina. Lula received a fifth grade education. She married Noah Williams, her only marriage, in Danville, Virginia. Noah had been married before. Lula also seems to have a great love and interest in her children but due to her limitations she seems to be ineffectual in discipling them. Her health is not goo she has a tumor and seriously needs an operation, but due to the financial situatio in the home she has not felt she could afford it. She works in service for severa Negro families about three days a week. Lula is a member of the Seventh Day Advan Church on Doe Street where she attends regularly. She takes the children with her when they have something to wear.

SIBLINGS: The Williams have eleven children, ten of which are still in the home, they are n

1. Albert, age 26, resides in Chicago, Illinois.
2. Chair, age 19, attends George Washington High School.
3. Olivia, age 17, attends Langston High School.
4. Olander, age 15, is now at the State Department of Welfare and Institutions.
5. Noah, age 14, attends Langston High School.
6. Terry, age 12, Grammy Grade School.
7. James, age 9, Grammy Grade School.

8. Odessa, age 7, Christy Grade School.

9. Larry, age 6.

10. Laverne, age 4.

11. Jerry, age 3.

HOME AND NEIGHBORHOOD: Terry lives with his mother, father and nine brothers and sisters in a Negro section located in the North end of Danville. They rent their home from Attorney Jerry Williams paying $55.00 per month rent plus having to pay their utility bill. This is a nine-room white frame house with bath and hall. If it was well kept it would be a rather attractive little cottage, but with ten children in the home and limited ability it has always presented a most untidy appearance. The furnithte is dilapidated and inadequate actually to meet the needs. They have a large garden space in the back where each year Lula and Noah have a nice garden which helps to provide food for their children. They have a television which is now broken, a refrigerator and a gas stove. They heat the rooms with coal stoves; this also presents a problem in keeping the house clean. Noah works, as previously stated, at the Westmoreland School where he has a weekly income of $57.00 per week. Lula does service work one or two days a week.

HEALTH: Terry had a fall in 1965 and according to his mother he has not acted right since. He fell on the back of his head and a large place there. She took him to a doctor but she said that the doctor examined his head and said he did not have a concussion, however, she still thinks that it affected his mind and in Lula's words she states, "He needs a head doctor". He has also been in hospital twice; broke his arm once and on the other occassion it was out of joint. Terry has had most of his childhood diseases.

EMPLOYMENT: Terry, due to his age and his size has never had any employment. He helps a little bit around the house and sometimes helps his father and mother in the garden.

RELIGION: This family has no close religious affiliations except the mother, who states that she is a member of the Seventh Day Advintist Church where she attends regularly and takes the children when they have adequate clothes to wear.

SUMMARY: Terry, one of a large family, who has lived under many difficulties. The father has never been able to earn adequate income to meet the family needs. The mother, due to her health, is not regularly employed so is not able to provide very much in a financial way and due to her limited ability, even though she shows love and affection for the children, her discipline is not ineffectual. Terry himself is a very appealing, [illegible] spoken little fellow whose way of expressing himself and explaining his conduct always seems to clear things to himself without his realizing the serious [illegible] of his conduct problems in the environment.

Terry has not stopped [illegible] fit and he continues [illegible] but is talking well [illegible] that he has become quite a problem in school. [illegible] and the principal [illegible] mentally and [illegible]

he might receive some help there, but according to his IQ he would perhaps be unacceptable there, although the father, Noah Williams did sign papers and tried to cooperate with both the school and the P. O. to have him committed.

On October 23rd a petition was signed charging Terry with falsely pulling a fire alarm box on October 15, 1967. A petition was also signed charging Terry with breaking and entering Grasty School in the night-time and larceny from Grasty School on October 15, 1967. A petition was also signed charging Terry with trespassing on the property of Bessie Harper and malicious damage to the property in the amount of $20.00 and larceny of one drop-cord from James Harper; date of offense 10/18/67.

DISPOSITION: November 3, 1967-Committed to St. Dept. on charge of pulling a fire alarm box, Nol Prossed charges of Breaking and entering and trespassing and malicious damage.

Form No. JC-5 (Law of 1950 or Amendments thereto)

RECEIVED
FEB 11 1971
DIAGNOSTIC CENTER

COMMITMENT

Virginia:

In the Juvenile and Domestic Relations Court of City of Danville

WHEREAS, Terry Williams (Name of child committed), a white—colored (check) child or minor 15 years of age, born September 11, 19 55, was on February 11, 19 71 brought before me, Spiro B. Skenderis (Justice's Name), Judge—Associate Judge of the Juvenile and Domestic Relations Court of Danville, Virginia, upon a petition in writing, verified by oath of D. L. Dalton, who is a probation officer—law enforcement officer—a reputable person, alleging that said child or minor comes within the purview of the Juvenile and Domestic Relations Court law of 950, in that the said child or minor Breaking & entering Stonewall Jackso School and commit larceny on 12-10-70 (Describe reasons therefor)

WHEREAS, The provisions of the Juvenile and Domestic Relations Court law of 1950, or amendments thereto, have been duly complied with in assuming jurisdiction of said child or minor:

NOW, THEREFORE, The Court having heard the evidence upon said petition and being of the opinion that the said child or minor comes within the purview of the aforementioned law and that the welfare and best interests of the said child or minor requires that the State should assume guardianship, doth so adjudicate, and doth order that the said child or minor be committed and doth hereby commit said child or minor to the State Board of Public Welfare and Institutions—the State Dept of Welfare & Institutions an agency approved by the State Board of Public Welfare and Institutions and incorporated under the laws of this State for the care, etc., of children—to be received, detained, managed and controlled in the manner prescribed by law.

Given under my hand and seal, this 11th day of February, 19 71

Judge, (SEAL)
Juvenile and Domestic Relations Court — Associate Judge

Form No. JC-8 (Law of 1950 or Amendments thereto)

RECEIVED
FEB 11 1971
DIAGNOSTIC CENTER

COMMITMENT

irginia:

In the Juvenile and Domestic Relations Court of City of Danville

WHEREAS, Terry Williams (Name of child committed), a white—colored (check) child or minor 15 years of age, born Sept 11, 19 55 was on February 11, 19 71 brought before me, Spiros E. Kenderis (Justice's Name), Judge—~~Associate Judge~~ of the Juvenile and Domestic Relations Court of Danville, Virginia, upon a petition in writing, verified by oath of T. C. Talley, who is a probation officer—law enforcement officer—a reputable person, alleging that said child or minor comes within the purview of the Juvenile and Domestic Relations Court law of 1950, in that the said child or minor Breaking and entering Grasty Center and commit larceny on 12-11-70 (Describe reasons therefor)

WHEREAS, The provisions of the Juvenile and Domestic Relations Court law of 1950, or amendments thereto, have been duly complied with in assuming Jurisdiction of said child or minor:

NOW, THEREFORE, The Court having heard the evidence upon said petition and being of the opinion that the said child or minor comes within the purview of the aforementioned law and that the welfare and best interests of the said child or minor requires that the State should assume guardianship, doth so adjudicate, and doth order that the said child or minor be committed and doth hereby commit said child or minor to the State Board of Public Welfare and Institutions—the State Dept of Welfare & Institutionan agency approved by the State Board of Public Welfare and Institutions and Incorporated under the laws of this State for the care, etc., of children—to be received, detained, managed and controlled in the manner prescribed by law.

Given under my hand and seal, this 11th day of February, 19 71

Juvenile and Domestic Relations Court Judge, (SEAL) ~~Associate Judge~~

Form No. JC-6 (Law [illegible]0 or Amendments thereto)

RECEIVED
FEB 22 1971
DIAGNOSTIC CENTER

COMMITMENT

Virginia:

In the Juvenile and Domestic Relations Court of City of Danville

WHEREAS, Terry Williams
(Name of child committed)
a ~~colored~~ (check) child a minor 15 years of age, born September 11, 19 55 was on February 11, 19

brought before me, Stratos B. Svenderis, Judge—~~Associate Judge~~ of the Juvenile and Domestic Relations Court of Danville, Virginia, upon a petition in writing,
(Justice's Name)

verified by oath of W. G. Doss, who is a probation officer—law enforcement officer—a reputable person, alleging that said child or minor comes within the purview of the Juvenile and Domestic Relations Court Law of 1950, in that the said child or minor Breaking and entering Stonewall Jackson School with intent to commit larceny on 12-21-70
(Describe reasons therefor)

WHEREAS, The provisions of the Juvenile and Domestic Relations Court law of 1950, or amendments thereto, have been duly complied with in assuming jurisdiction of said child or minor:

NOW, THEREFORE, The Court having heard the evidence upon said petition and being of the opinion that the said child or minor comes within the purview of the aforementioned law and that the welfare and best interests of the said child or minor requires that the State should assume guardianship, doth so adjudicate, and doth order that the said child or minor be committed and doth hereby commit said child or minor to the State Board of Public Welfare and Institutions—the State Dept of Welfare & Institutions an agency approved by the State Board of Public Welfare and Institutions and incorporated under the laws of this State for the care, etc., of children—to be received, detained, managed and controlled in the manner prescribed by law.

Given under my hand and seal, this 11th day of February, 19 71

Juvenile and Domestic Relations Court, Judge. (SEAL)
Associate Judge

WILLIAMS, Terry

Received February 11, 1971

2-22-71 INTAKE: Assigned to L Cotage; L House------ School A continued to March 19

3-71 PROGRESS REPORTS:
COTTAGE L: Average.
RELIEF: Does what he is told to do, "No trouble at all". Good relations.
L HOUSE: He is most helpful and cooperative. Appears to enjoy his job and gets along well with me and the other boys.
School-A-Math-C: Good. Has some difficulty in getting along with some boys in class. Good respect.
Kibler-Reading Skills-B: Good report. Has ability to do work, tries hard.
Russell-A-Reading: Bright student who could make a lot of progress. Doesn't realize how well he could do if he would really try and pay attention, he requires too much supervision. Fair attitude, it is ashame because he could really progress. Has not decided to do his bet if he does he will pgress rapidly.
RECOMMENDATION: L House - Acad. School----------Continued to April 15.

71 PROGRESS REPORTS:
COTTAGE L: Excellent report.
RELIEF: Very good report. Doesn't talk enough, seems to be a little shy at times, likes to stay by himself.
L HOUSE: Excellent report. He has a marvelous personality. Tries extremely hard to please. Slightly careless with his cleaning at times although quite willing to do work over when told.
SCHOOL-Kibler-Reading Skills-C: Excellent report.
Russell-B-Reading: One of the most improved students that I have - really getting the job done. Effort very good, hasn't been wasting time lately, sticks to his work. Promoted A to B reading, very good progress in work and behavior.
Owen-P,E. Terry is not in my class now. He was transferred. Terry and I had a problem for awhile, but now that is better. He could do what he was told to do. We had a talk and now he understands that he is to do what his supervisors tell him. Very good.
Brett-C: Good Report.
RECOMMENDATION: N House - Acad. School----------Continued to May 20.

20-71 PROGRESS REPORTS:
COTTAGE L: Excellent report.
L COTTAGE HOUSE: He gets along well with me and the other houseboys. Still not the best cleaner but tries hard. Excellent reports.
SCHOOL-Kibler-Skills-B-: Excellent report. Good hard worker, very friendly, often asks if he can have extra work to do. Terry has done a fine job and shown good improvement.
Duke-Math: This boy has been my student for only two weeks and I do not feel I can give him an effective report.
Russell-B-Reading: Excellent report. Continued steady work and progress.
Ellis-P,E.---Very good report. Grade - C
RECOMMENDATION: L House - Acad. Sch.--------Continued to June 17

WILLIAMS, Terry

Cottage L

-71 PROGRESS SUMMARY:
Morehead: Real good, sometimes he is even too good; no trouble, has never lost his temper.
Hall: Real good; no problem; lacks motivation at times.
Crump: Has had no problem with him at lunch.
Duke: Doing fine
Hundley: Nothing derogatory, no trouble at all
RECOMMENDATION: L House - acad. school PLACEMENT

1-13-67 ger — Terry was committed to the State Department of Welfare on this date by the Danville Juvenile Court for Falsely pulling fire alarm.

1-15-67 — Papers received.

1-16-67 — Letter to Judge Moore acknowledging receipt and acceptance of commitment.

1-18-67
2-6-67
2-12-67
Moody
t/Duffell — Terry was seen as an extremely attractive Negro youth who had a very baby face and his stature was so small that he reminded one of a ten year old instead of a thirteen. Worker never saw Terry that he was not smiling as he seemed to enjoy the attention of others. Terry seemed extremely honest in talking about his past behavior and lacked apparent remorse for his actions. In fact, Terry said that his mother had told him to ask for things if he wanted them and if he found that he was not getting them he just decided to take them. He seemed to not have a good understanding of moral judgment and it would seem that possibly he has not been consistently taught the proper guidelines. This youngster was unable to talk about his feelings towards his parents but did not seem to be trying to hold back any feelings about them. He did state that they were not regular drinkers and only drank when his brother from Chicago was home. At that time, he said they dance and argue at the same time. Terry reported that he and his brothers did not get along as they seemed to pick on him a great deal. He stated that he was in the 5th grade and because of watching TV until very late he slept in school a great deal of the time. Terry reported that he finally stopped going to school and that his father knew about this but nothing was done. Terry was not in contact with his family while he was in the study unit. He expressed some concern about his family not keeping in touch with him.

This is the case of a very unsophisticated youngster who has come from a very financially deprived family where there are ten children who are products of parents who have had various drinking problems in the past. Because of the large family and because of the past problems in the home concerning drinking, it is highly probably that Terry has felt an emotional rejection also. As previously mentioned, he soaks up attention and warmth and is able to forget his own feelings. It has been most apparent in talking with Terry that he has a very weak moral judgment probably as a result of not having morals instilled in him. Because of this and because of the various trouble in which he has become involved, it is felt that placement in a foster home at this point would be a risk for this youngster. He is in need of consistent controls and limitations at this point before any other plan could be pursued.

1-27-67 — CLASSIFICATION:

On this date our Classification Committee met and approved the recommendation that Terry be placed in the permanent population of the Illinois Youth Center pending referral and acceptance at the Intensive Treatment Unit.

2-[illegible] — Terry was committed to the Illinois Department of Welfare on this date by the Juvenile Court of Vermilion County, Illinois, upon the charge of [illegible]

[illegible]

[illegible]

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF CORRECTIONS
DIVISION OF YOUTH SERVICES
RICHMOND, VIRGINIA

CERTIFICATE OF DISCHARGE

Whereas, Terry Williams, a boy ~~girl~~ born 9-11-55, was duly committed to the State Board of Corrections on the 13th day of November, 19 67, by the Juvenile Court of Danville, Virginia, under the provisions of Section 16.1-178 (4) of the Code of Virginia as amended, and Whereas, the Board or its authorized agents are of the opinion that the said ward should be released from the guardianship and custody imposed by the above order of commitment because youth has attained age 21

Now, therefore, the Board or its authorized agents hereby Discharge the said ward from its authority this the 15th day of November, 19 76.

STATE BOARD OF CORRECTIONS

BY: _____
Supervisor of Aftercare Services
Division of Youth Services

BY: _____
Assistant Director
Division of Youth Services

RECEIVED
OFFICE O[illegible] OR
JUL[illegible] 1971
[illegible]sion of Youth Services

July 2, 1971

Mrs. Bettye H. Dallas, Chief Probation Officer
Danville Juvenile and Domestic Relations Court
Municipal Building
Danville, Virginia 24541

Re: Terry Williams
B: September 11, 1955
State File: [illegible]
Parents: Mr. and Mrs. Noah W. Williams
195 White Street
Danville, Virginia 24541

Dear Mrs. Dallas:

On June 16, 1971 the treatment team reviewed Terry's progress and have agreed to begin to plan for his release from direct care.

Terry is a returnee to state care. He was first committed by your court on November 13, 1967 for falsely pulling a fire alarm. He was received at Hanover as a permanent boy on January 2, 1968. He was released to your court on August 30, 1971. Terry was recommitted by your court on February 11, 1971 for Breaking and Entering and commit larceny. He arrived at Beaumont on February 11, 1971.

Academic and Vocational:

Terry is attending school one half day and has done satisfactorily, a copy of his transcript is enclosed.

On the vocational level Terry worked as a houseboy. A job which he performed diligently.

Clinical and Casework Evaluation:

Terry was not reevaluated by Mobile Psychiatric Clinic since June 1968.

At that time he received a WISC Full Scale score of 76. Observations of his functioning at Beaumont tends to reinforce the validity of the score.

While at Beaumont he has at times been withdrawn from the peer group of his cottage. Terry has a problem in relating socially with people. He craves attention but does not extend himself toward others for fear of rejection. It is significant that he related well with his housemother.

Unless Terry is able to establish a strong positive relation with a significant adult in his life he will probably continue to regress to anti-social behavior. In the controlled atmosphere of Beaumont Terry has functioned well.

Health:

Our school physician has examined Terry and found him to be in good health.

Religion:

Church services held regularly at Beaumont were attended by Terry and we hope he will be encouraged to attend the church of his choice.

Plan:

It is our plan that Terry return to his home. School is also recommended for this lad but we are not optimistic that he will. It is hoped that the Vocational Rehabilitation Counselor in your city will help him.

We will wait to hear the results of your home investigation.

Sincerely,

John T. Kielty, Jr.
Casework Supervisor

JTK/ss
CC: Mr. C. R. Minor
V.D.V.R.

enc.

COMMONWEALTH OF VIRGINIA

DEPARTMENT OF WELFARE AND INSTITUTIONS

DIVISION OF YOUTH SERVICES

RICHMOND, VIRGINIA

C E R T I F I C A T E O F D I S C H A R G E

Whereas, Terry Williams, a boy-~~girl~~ born 9-11-55,
was duly committed to the State Board of Welfare and Institutions on the 13th
day of November, 19 67, by the Juvenile & Domestic Relations
Court of Danville, Virginia, under the provisions of
Section 16.1-178(4) of the Code of Virginia as amended, and
Whereas, the Board or its authorized agents are of the opinion that
Terry Williams should be released from the
guardianship and custody imposed by the above order of commitment because
"He has made a satisfactory adjustment in his community."

Now, therefore, the Board or its authorized agents hereby discharge the said
Terry Williams from its authority this the
24th day of March, 19 68.

STATE BOARD OF WELFARE AND INSTITUTIONS

BY: _____

_____

BY: _____

_____

August 23, 1968

Mrs. Bettye H. Dallas, Chief Probation Officer
Juvenile and Domestic Relations Court
Municipal Building
Danville, Virginia 24541

Re: Terry Williams
Born: 9-11-55
Our File: #16135

Dear Mrs. Dallas:

This is a summary, including the plan of our Placement Committee for the release of the above-named youth at the earliest practicable time. We would appreciate your investigation of the home and family situation in order to determine the feasibility of his return to the community under your supervision.

Terry was committed to the State Department of Welfare and Institutions on 11-13-67 by the Danville Juvenile Court for falsely pulling a fire alarm.

Enclosed you will find a copy of our psychological report.

Terry's problem seems to be centered around his home situation. He is the product of emotional and financial deprivation. He is starved for the attention he could not receive in his large family. His parents seemed to care very little for their children, and Terry received very little moral training at home.

Terry seems to be able to function very well in our environment of routine controls. We attempted to punish Terry for his wrongdoings but to show him that discipline does not mean a loss of love. Terry has responded very well. He knows what good behavior is, and if given a reason can almost behave perfectly. For example, during June we set aside a week for good manners. We had a contest to see who could be the best behaved for the week. Terry was absolutely perfect for the week. When he received the prize, he seemed to lose his motivation for being good. Terry must be continuously motivated and guided, and when he sees that you care or he able to function very well. We feel that with the proper supervision and guidance he will be able to make a good adjustment on the community level.

Terry has received the routine injections and is enjoying good health. He will be given a complete physical prior to his release.

Terry was enrolled in our academic department, and his transcript is enclosed. Reports show that he is not motivated at all times; therefore, his work is not consistent.

We feel that Terry has received the maximum from our program, and we propose to release him to the Juvenile Court of Danville. Terry would like to return to his parents, Mr. and Mrs. Noah Williams of 195 White Street, Danville, Virginia. We feel that unless there is some change in the home that this is probably not a favorable placement. If this placement proves not feasible, the possibility of placement with a relative, possibly Mrs. Bessie Surgion, Terry's aunt, may be considered. If these placement plans fail, we suggest foster placement. This plan is subject to the approval and under the supervision of the Juvenile Court of Danville.

Very truly yours,

Samuel A. Mills
Child Welfare Worker

E. JORDAN, JR.
Superintendent

George Dorman, Jr.
Child Welfare Supervisor

cc: Mr. C. R. Minor
Enclosures
SAM/eig

January 18, 1968

Mrs. Bettye H. Dallas, Chief Probation Officer
Danville Juvenile and Domestic Relations Court
Municipal Building
Danville, Virginia 24541

Re: Terry Williams, N-M
Born: 9-11-55 (verified)
Our File #16135

Dear Mrs. Dallas:

This is a progress letter on the above-named youth who was committ to this Department on 11-13-67 by the Danville Juvenile Court for fal pulling a fire alarm. Terry was known previously to the court. He was placed in the study unit at the Hanover School for Boys 11-20-67.

CLINICAL AND CASEWORK EVALUATION:

See the enclosed psychological report.

Terry was seen as an extremely personable youngster who readily r nded to attention given him by others. Terry's appearance and unsophi tion reminded one of a much younger child. Although Terry was quite ho in admitting his participation in the offenses, he seemed to lack unde ending of the wrongness of his actions. Terry was unable to discuss his r tionsh with his parents but never displayed any negative feelings toward t . He saw himself as a target of great teasing from his other brothers an ng obtained the feeling that he felt somewhat "lost in the shuffle" am go am siblings. In general, this seems to be a youngster with a low intel ent quotient who has apparently suffered from this as well as from emoti l and financial deprivation. As a result, he is presently displaying sig f irresponsible behavior and apparently has received little moral tra s fro home.

HEALTH:

After receiving a physical examination, Terry was found to have a umbilical hernia and to be physically immature for his development.

Recommendations were for general upbuilding, polio vaccinations and a TI test.

ACADEMIC:

According to Terry, he was last in the 5th grade where his interest was ... He claimed to have slept in school quite often as a result of having wat... television late the night before. Terry reported that finally he stopped going to school altogether.

STUDY UNIT ADJUSTMENT:

Terry was noted to be a very vivacious youngster in the study unit but one who was able to get along with his peers and able to accept authority.

RELIGION:

Terry and his family have been irregular attenders of church. While he was in the study unit he did attend the weekly non-denominational religious services.

PLAN:

On 12-28-67, our Classification Committee met and approved the recommendation that Terry be placed in the permanent population of the Hanover School for Boys pending referral and acceptance at the Petersburg Training School. It was felt that this youngster was in need of consistent controls and could profit from such help that he could receive at the training school.

We hope this information has been helpful to you, and if we can be of further assistance please do not hesitate to contact us.

Sincerely,

(Miss) Nancy Y. Moody
Child Welfare Worker

NYM:md
Enclosure:
cc: Hanover

(Miss) Betty Weikel, ACSW
Child Welfare Supervisor

ROBIN A. LaDUE, Ph.D.
Clinical Psychologist
1600 Benson Rd S Suite 201 • Renton, Washington 98055 • (206) 277-5616

April 17, 1995

Ms. Linda Tarlow
O'Donoghue & O'Donoghue
4748 Wisconsin Ave. NW
Washington, DC 20016

Dear Ms. Tarlow,

I am writing in response to your request for an affidavit on the effects of prenatal alcohol exposure on brain functioning. Your specific request concerned people with FAS having the ability to distinguish fact from fiction. As I have indicated to you, people diagnosed with Fetal Alcohol Syndrome and Fetal Alcohol Effect have frontal lobe damage which impairs judgment and abstracting abilities. It is not uncommon for people with FAS to have difficulties with memory and to have difficulty telling fact from fiction.

However, these deficits vary from person to person. Unless a diagnostic examination and a psychological evaluation are conducted, it is not possible to assume any one individual will display such deficits.

If you have any questions, please feel free to contact me. I would also refer you to the following references:

LaDue, R.A. Psychosocial Needs Associated with Fetal Alcohol Syndrome. Fetal Alcohol and Drug Unit, University of Washington Medical School, 1993.

Streissguth, A.P., LaDue, R.A. & Randels, S.P.: "A Manual on Indian Adolescents and Adults with Fetal Alcohol Syndrome". University of Washington, Seattle, WA, 1986, Indian Health Service, Rockville, MD, 1987.

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Streissguth, A.P., Aase, J.M., Clarren, S.K., Randels, S.P., LaDue, R.A. & Smith, D.F.: "Fetal Alcohol Syndrome: Natural History in Adolescents and Adults". Journal of the American Medical Association, 265(15), 1991, pp 1961-1967.

Sincerely.

Robin A. LaDue, PhD
Clinical Psychologist

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

VIRGINIA STATE BAR,

v. VSB NO. 87-050-0381

EVERETT L. MOTLEY JR.

ORDER

This matter came on for a hearing before the Board on the 19th day of May, 1989. Members of the panel were: Phillip C. Stone, Chairman; Billy Joe Tisinger; Peter C. Manson, Jr.; Janice J. Brice and Bernard J. DiMuro. Angela Edwards Roberts, Assistant Bar Counsel, was present for the Bar. The Respondent did not appear either in person or by counsel.

The Respondent did not appear at the appointed hour of 9:00 a.m. The panel began the hearing at 10:30 a.m. At the direction of the Chairman, the bailiff checked the hallways and called out the name of the Respondent three times. There was no response.

The Bar introduced exhibits indicating appropriate and timely notice to the Respondent of these proceedings. In addition, the Chairman noted that a letter dated May 12 and received by the Bar office on May 16, 1989 from the Respondent indicated his knowledge of the scheduled hearing. The Chairman noted that when he had been informed by Bar Counsel of the receipt of the May 12 letter in which the Respondent indicated his desire for a

PETITIONER'S EXHIBIT

continuance, the Chairman directed that the letter be sent to him by facsimile for consideration. The Chairman treated the letter as a motion for a continuance and denied the motion. The Order denying the motion was entered on May 17, 1989.

Bar Counsel confirmed that no further communications were received by her from the Respondent.

The Bar then presented its evidence.

Upon the evidence, the Board finds that there was clear and convincing evidence to establish the following:

1. By Order of the Danville Circuit Court entered September 28, 1982, the Respondent was appointed as a Substitute Trustee to administer certain trust funds for the benefit of Marion Smith Walton and Louise Walton Cobb. As a result of such appointment, the Respondent thereafter was entrusted with certain funds of the trust which, as an attorney and trustee, he was obligated to hold, disburse and render accountings in a fiduciary capacity.

2. The Respondent failed thereafter to attend promptly to the matters undertaken by him in this matter in that he failed to properly monitor the funds in his possession and properly handle the bank accounts in which those funds were deposited. As a result of the neglect and failure to attend promptly to such matters, on a number of occasions and, in fact, during almost all months that the Respondent handled these funds, the specific trust account in which the funds were deposited was overdrawn. The Respondent issued or caused to be issued checks payable on

that trust account which were returned because of insufficient funds in the account, or service charges for those checks were charged to the account for the overdraft. In addition, the Respondent failed to file any accounting in regard to his fiduciary responsibilities in this matter.

3. In the handling of this matter, the Respondent failed to maintain any trust account records in that he had no ledger cards, no cash receipts journal, no cash disbursement journal, nor any other records required to be kept and maintained on a trust account, all of which resulted in the lack of any accounting for the funds entrusted to the Respondent and overdrafts in the trust accounts as described above. Since no records were maintained, no periodic trial balances were made, no reconciliations were done, insufficient-fund check reporting did not occur and deposit records were not maintained.

4. There is nothing to indicate that the trust property was ever at risk, mingled with any funds of the Respondent or other clients or in any way abused by the Respondent. In fact, the Respondent took no commissions or fees from the trust property. The bank service charges assessed against the trust account for overdrafts (which overdrafts resulted from the negligent failure of the Respondent to transfer trust funds from an interest-bearing savings account into a checking account) were paid by the Respondent. The Complainant neither suffered any actual loss from the conduct of the Respondent nor were her trust funds ever subjected to any jeopardy by the Respondent.

The Board found by clear and convincing evidence that the Respondent violated DR 6-101(B); DR9-102(B)(3); DR9-103(A)(1), (2) and (3); and DR9-103(B)(4), (5) and (6). The Board found there was not clear and convincing evidence as to the violation of DR9-103(B)(1) and (2).

The Board then inquired as to whether there was any record of any prior violations of Disciplinary Rules by the Respondent. It was disclosed that a private reprimand was issued against the Respondent by the Sixth District Committee on November 19, 1986 (Bar Exhibit 27), which private reprimand involved claims of failure to maintain trust account records properly at approximately the same time as this matter.

Upon consideration of the evidence and the prior violation of the Respondent, it is ORDERED that the license of the Respondent to practice law in the Commonwealth of Virginia be suspended for a period of one hundred and twenty (120) days commencing on the 19th day of June, 1989 and continuing until the 17th day of October, 1989.

It is further ORDERED that the Respondent immediately give notice, by Certified Mail, of the suspension of his license to practice law in Virginia to all clients for whom he is currently handling matters and to all opposing attorneys and to the presiding judges in pending litigation, and he shall further make immediate appropriate arrangements for the disposition of those matters presently in his care in conformity with the wishes of

his clients, all pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13(J)(1).

It is further ORDERED that the Respondent shall furnish evidence of his compliance hereto to the Virginia State Bar within thirty (30) days from the date of this Order.

It is further ORDERED that a copy of this Order shall be mailed to Everett L. Motley, Jr. at his last address on file with the Virginia State Bar, P. O. Box 3702, Danville, Virginia 24543.

ENTERED THIS 31st DAY OF MAY, 1989

VIRGINIA STATE BAR DISCIPLINARY BOARD

By:

Phillip C. Stone, Chairman

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

VIRGINIA STATE BAR

v. VSB NO. 88-050-0344

EVERETT L. MOTLEY JR.

ORDER

This matter came on for a hearing before the Board on the 19th day of May, 1989. Members of the panel were: Phillip C. Stone, Chairman; Billy Joe Tisinger; Peter C. Manson, Jr.; Janice J. Brice and Bernard J. DiMuro. Angela Edwards Roberts, Assistant Bar Counsel, was present for the Bar. The Respondent did not appear either in person or by counsel.

The Respondent did not appear at the appointed hour. The panel delayed commencement of the hearing from its noticed time of 9:00 a.m. until 9:45 a.m. At the direction of the Chairman, the bailiff checked the hallways and called out the name of the Respondent three times. There was no response.

The Bar introduced exhibits indicating appropriate and timely notice to the Respondent of these proceedings. In addition, the Chairman noted that a letter dated May 12 and received by the Bar office on May 16, 1989 from the Respondent indicated his knowledge of the scheduled hearing. The Chairman noted that when he had been informed by Bar Counsel of the receipt of the May 12 letter in which the Respondent indicated his desire for a continuance, the Chairman directed that the letter be sent to him

PETITIONER'S EXHIBIT 20

by facsimile for consideration. The Chairman treated the letter as a motion for a continuance and denied the motion. The Order denying the motion was entered on May 17, 1989.

Bar Counsel confirmed that no further communications were received by her from the Respondent.

The Bar then presented its evidence in the form of exhibits and the testimony of the complainant and a Bar investigator.

Upon the evidence, the Board found that there was clear and convincing evidence to establish the following:

1. The Respondent was retained in June, 1985 to represent the complainant in a divorce and property matter. The complainant was seeking a divorce a vinculo matrimonii, which could have been obtained within one year of the date he was retained. A final decree was entered on June 22, 1987.

2. At the time the complainant retained Respondent, the complainant and her husband had agreed that the husband would convey his interest in their marital abode to the complainant in settlement of their joint property rights. The Respondent was to prepare a deed making the conveyance. The Respondent did not provide the deed to the complaint until the day before the hearing before the Fifth District Committee in this case, at which time the husband had begun to reconsider his agreement to convey the property. The husband still has not signed the deed.

3. The complainant made numerous attempts to contact the Respondent by telephone and once by letter, but the

Respondent failed to return the telephone calls or answer the letter.

The Board found by clear and convincing evidence that the Respondent violated DR6-101(B) and DR6-101(C).

Because the Respondent was the subject of a hearing on a different charge immediately following this case, the Board deferred requesting information about any prior violations on the part of the Respondent and also deferred its decision as to the sanction.

After the completion of the hearing of the other case, the Board inquired as to any prior violations on the part of the Respondent and learned that a private reprimand was issued against the Respondent by the Sixth District Committee on November 19, 1986.

Upon consideration of the evidence, it is ORDERED that the Respondent be and he is hereby issued a PUBLIC REPRIMAND.

It is further ORDERED that a copy of this Order shall be mailed to Everett L. Motley, Jr. at his last address on file with the Virginia State Bar, P. O. Box 3702, Danville, Virginia 24543.

ENTERED THIS 31st DAY OF MAY, 1989

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: _____
Phillip C. Stone, Chairman

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
EVERETT L. MOTLEY, JR.

CASE # [illegible]

ORDER

It appearing that Assistant Bar Counsel has determined that probable cause exists to believe that Everett L. Motley, Jr. suffers from a disability which renders him incompetent to practice law; and

It further appearing that Assistant Bar Counsel has requested this Board to conduct a hearing in this matter pursuant to the Rules of Court, Part Six: Section IV: Paragraph 13(E),

It is ORDERED that this matter be, and it is hereby, set for hearing in the Green Courtroom, of the Fourth Circuit Court of Appeals, 10th & Main Streets, Richmond, Virginia. The hearing shall commence at 9:00 a.m. on Friday, September 22, 1989.

It is further ORDERED that Whittington W. Clement, a discreet and competent attorney-at-law be, and he is hereby, appointed guardian ad litem on behalf of Everett L. Motley, Jr. and to represent Mr. Motley's interests as the guardian ad litem shall deem best.

ENTER THIS ORDER THIS 14th DAY OF September, 1989.

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: [signature]

PETITIONER'S EXHIBIT 21

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
EVERETT L. MOTLEY, JR.

CASE NO. 90-000-0185

ORDER

On Friday, September 22, 1989, came on for hearing the Petition of the Virginia State Bar to suspend the license of Everett L. Motley, Jr. pursuant to the Rules of Court, Part Six: Section IV: Paragraph 13(E). The hearing was held before a duly convened panel of the Virginia State Bar Disciplinary Board consisting of Phillip C. Stone, Janice J. Brice, William J. Sturgill, Bernard J. DiMuro and Alex T. Mayo Jr. Angela Edwards Roberts appeared on behalf of the Virginia State Bar.

Whittington W. Clement, guardian ad litem for Everett L. Motley submitted an affidavit dated September 21, 1989, from Dr. B. R. Ashby, Motley's psychiatrist, which updated his medical condition. From the affidavit and the previous medical report submitted to the Disciplinary Board dated June 21, 1989, it is clear that Mr. Motley currently suffers from a disability which prevents him from engaging in the practice of law. Dr. Ashby notes in the affidavit that "It is my opinion that his psychiatric impairment is so severe that he is totally unable to carry out his private practice of law."

Wherefore, it is the judgment of the Board that the license of Everett L. Motley, Jr. to practice law in the Commonwealth of Virginia should be suspended for such a period of time as he may suffer from a disability, and it is so ORDERED.

PETITIONER'S EXHIBIT 22

It is further ORDERED that an attested copy of this Order be mailed to Everett Lyle Motley, Jr., at P. O. Box 3702, Danville, Virginia 24543.

ENTER THIS ORDER THIS 22nd DAY OF SEPTEMBER, 1989

VIRGINIA STATE BAR DISCIPLINARY BOARD

Chairman

IN THE CIRCUIT COURT OF DANVILLE
COMMONWEALTH OF VIRGINIA

TERRY WILLIAMS, Petitioner, v. CHARLES THOMPSON, Mecklenburg Correctional Center, Defendant.	LP 88-81 HABEAS CORPUS

AFFIDAVIT OF BARBARA S. CRUMPTON

I, Barbara S. Crumpton, do hereby depose and state as follows:

1. In 1984, the court appointed E.L. Motley, Jr. as guardian ad litem for my mother, Carrie W. Scearce. A court-appointed attorney was necessary because my mother was unable to handle her own affairs and there was a disagreement between family members regarding her finances.

2. I have been contacted by the law firm of O'Donoghue & O'Donoghue to give this affidavit in support of a Petition for a Writ of Habeas Corpus to be filed on behalf of Terry Williams, an inmate on Virginia's death row. I understand that Mr. Williams was also represented by E.L. Motley, Jr.

3. My mother received a total of approximately $450.00 per month in social security and retirement benefits. During the time that E.L. Motley was her guardian, he continually failed to properly handle her accounts.

4. On at least three to five occasions, Mr. Motley wrote bad checks to me from my mother's account. Mr. Motley simply did not

PETITIONER'S EXHIBIT 24

deposit her checks in a timely manner. He permanently lost five of her pension checks.

5. Mr. Motley had no secretary to assist him and seemed to be behind in his work. He would promise to attend to depositing checks and balancing accounts. However, he was never able to perform his duties in an acceptable manner. He also failed to return my phone calls. He was always nice to me when I complained, but he continued to do a bad job.

6. Finally in 1986, I complained to the Virginia Bar about Mr. Motley. I attended a hearing in Danville and, at that hearing, Mr. Motley still could not produce pension checks he had received for my mother. After the hearing, I began to handle my mother's financial affairs. In November of 1986, I received a decision that Mr. Motley was reprimanded for his handling of my mother's case.

7. In my opinion, Mr. Motley was disorganized, overwhelmed, and incompetent during the period from 1984 to 1986 that he represented by mother.

8. I have been assisted in understanding this affidavit by Linda J. Tarlow, who has reviewed its contents with me by telephone. I understand all of the information that it contains.

I declare under the penalty of perjury that the foregoing is true and correct.

Barbara S. Crumpton

ljt\tw\crumpton.aff

IN THE CIRCUIT COURT OF DANVILLE
COMMONWEALTH OF VIRGINIA

TERRY WILLIAMS, Petitioner, v. CHARLES THOMPSON, Mecklenburg Correctional Center, Respondent.	)

AFFIDAVIT OF BRUCE ELLIOTT

COMMONWEALTH OF VIRGINIA)
)
COUNTY OF ~~Rockingham~~) ss
CITY OF Harrisonburg)

I, Bruce Elliott, after being duly sworn on oath do depose and say as follows:

1. I make this statement from my own personal knowledge.

2. I currently reside at 1570 North College Avenue, Harrisonburg, Virginia 22801.

3. I am a certified public accountant and a partner in the accounting firm of Elliott and Troyer in Harrisonburg, Virginia.

4. I met Terry Williams on February 19, 1978 while he was incarcerated at Virginia Correctional Union #8 in Harrisonburg, Virginia. My first contact with Terry was through an informal prison ministry program at Trinity Presbyterian Church in Harrisonburg.

5. Terry remained at the Harrisonburg facility until October or November 1978. While Terry was at Unit #8, I visited him every two to three weeks.

6. In October or November 1978, Terry was transferred to Unit #28 in Martinsville, Virginia. I visited Terry eight to ten times while he was at Unit #28. I attended Terry's graduation from the Carpentry school at the Martinsville facility. Terry took pride in his achievement at the Carpentry school. While at Martinsville, and any other facility, Terry always sought to prove to the correctional officers that he was a worthwhile person. Terry always took pride in the work that he performed while in custody and was very pleased that his efforts were recognized when he was placed on the "A Custody List" at Martinsville.

7. When Terry was on parole from 1980-1982, I saw him five or six times. We talked on the phone every few weeks. On one occasion, Terry came and stayed at my home in Harrisonburg. On another occasion, Terry and I went to a football game in North Carolina. When I was with Terry, he never expressed words of harshness for anyone. Terry was never angry nor bitter and I do not believe that Terry is a violent person. Terry is a mild mannered person and is not aggressive. I have never felt the least bit of fear when I was around Terry.

8. When Terry was subsequently incarcerated for breaking and entering, I visited him both at the Danville County Jail and at every other facility to which he was transferred.

While Terry may have been frustrated with his situation, he never expressed hostility toward anyone. As was the case in Martinsville, Terry was always concerned about making a good impression to those in charge of the correctional facilities and was proud of the work he performed while incarcerated. In my opinion, Terry always seemed to thrive in a more regimented and structured environment. Generally, I believe that when Terry was living in Danville, he was constantly being taken advantage of due to his small size, intelligence, and gullibility. Terry always emphasized that there was "nothing for him" in Danville.

9. In 1984, I wrote a letter in support of Terry's application for parole. In this letter, I emphasized that Terry had no future in Danville and suggested that he should be put in a half way house somewhere else in the state.

10. I frequently talked to Terry on the phone in 1985 after he was released. Often, during this period, Terry was living on the street. I was completely surprised when Terry phoned me about the capital murder charge. I could never imagine Terry intentionally harming anyone.

11. On my own initiative, I contacted one of the attorneys representing Terry in his capital murder trial. I believe that the attorney I spoke to was Mr. E.L. Motley. I spoke to the attorney about my relationship with Terry and that I had known Terry for several years. I offered to do anything I could to help Terry's situation. The attorney I talked with thanked me but never called back.

12. I have known Terry Williams for over ten years. During those ten years, Terry has been through frustrating and difficult times. But through it all, Terry tried to make the best out of a terrible family and financial situation. He has always endeavored to show persons in authority that he is a worthwhile human being. Terry has never sought revenge nor blamed others for his problems. Without hesitation, I can say that I have never seen Terry express a violent emotion and he is not a violent person.

Bruce Elliot
Bruce Elliott

Subscribed and sworn to
before me this 28th day
of July, 1988.

Kathleen M. M. Todd
Notary Public

My Commission Expires:
11/11/91

IN THE CIRCUIT COURT OF DANVILLE
COMMONWEALTH OF VIRGINIA

TERRY WILLIAMS,

Petitioner,

v.

J.D NETHERLAND,
Mecklenburg Correctional Center,

Defendant.

LP 88-81 HABEAS CORPUS

AFFIDAVIT OF JIMMIE L. JOYCE

I, Jimmie L. Joyce, having been duly sworn, do hereby state as follows:

1. I will not be in the State of Virginia on June 15 and 16, 1995 because of vacation plans. I will be unable to appear at an evidentiary hearing in Danville on either of those days without changing my plans and causing considerable disappointment to myself and my family.

2. I have reviewed the original statement I gave to the lawyers in Terry Williams' case on August 3, 1988. I agree with everything in my statement and would testify to its contents in Danville had I not made previous plans.

Jimmie L. Joyce

Sworn and subscribed to
before me this 1 day
of June, 1995.

Betty M Edwards
Notary Public

My commission expires: 1/31/96

ljt\tw\joyce.aff

PETITIONER'S EXHIBIT 27

IN THE CIRCUIT COURT OF DANVILLE
COMMONWEALTH OF VIRGINIA

TERRY WILLIAMS,	)
Petitioner,	)
v.	)
CHARLES THOMPSON, Mecklenburg Correctional Center,	)
Respondent.	)

AFFIDAVIT OF JAMES JOYCE

COMMONWEALTH OF VIRGINIA)
) ss
HENRY COUNTY)

I, Jimmie ~~James~~ Joyce, do depose and state as follows:

1. I am presently the Assistant Superintendent of Patrick Henry Correctional Unit in Spencer, Virginia.

2. I met Terry Williams when he was a prisoner at the Chatham Correctional Unit in the early 1980's. I was employed there as a facility manager.

3. I remember Terry as a quiet, courteous, neat, cooperative and non-violent prisoner during his time at Chatham. In fact, his good behavior prompted the kitchen officer to select him to work in the guards' dining room. Such work was assigned only to prisoners who were regarded as trustworthy, and who did not pose a danger.

4. I was a correctional officer at the Patrick Henry unit back in the mid-1970's. Terry was a prisoner there at the same time, but I did not get to know him until he went to the

Chatham unit some years later.

5. Terry's counsel has informed me that Terry was an "A custody" prisoner at Patrick Henry. "A custody" indicates that the prisoner is regarded as "minimum security." It is common for a prisoner who has entered the prison as "B custody," or medium security, to be upgraded to "A custody" as a result of good behavior. Whether a prisoner deserves "A custody" status is decided by prison counselors, who use a scoring system to make their determination. The counselors' decisions are subject to approval by the Richmond Central Classifications Office. Among the factors which counselors consider are history of institutional violence, severity of current offense, escape history, and disciplinary record. If Terry was deemed to be "A custody," this meant that he was among those prisoners considered least likely to act in a violent, dangerous or provocative way.

6. Terry's counsel has informed me that Terry was on "work release" during the final months of his stay at Patrick Henry. The work release program allows select inmates to work in the community for wages higher than those they could obtain while working on a road gang. To be eligible for work release, Terry had to have been in "A custody," nearing parole and without disciplinary infractions for six months before entry into the program. And to actually be selected for work release, he had to have had a good prison work record and highly favorable staff evaluations. In those days, the correctional institution selected inmates for work release subject to approval from the

Richmond Central Classifications Office.

7. Terry's counsel has informed that he attended woodwork school while a prisoner at Patrick Henry. The requirements for the woodwork school were about the same as those for the work release program. The school was reserved for well-behaved, minimum security prisoners who were close to parole.

I have read the foregoing and they are true and correct to the best of my knowledge and recollection.

~~James~~ Joyce
Jimmie L.

Subscribed and sworn to
before me this 3 day
of ~~July~~, August 1988.

Jerry M. Brown
Notary Public

My commission expires:

11- 18- , 1988.

AFFIDAVIT OF JENNIE WILLIAMS

CITY OF DANVILLE
~~STATE OF NORTH CAROLINA~~)
COMMONWEALTH OF VIRGINIA) ss
~~COUNTY OF CASWELL~~)

I, Jennie Williams, depose and state as follows:

1. I have been asked by Terry Williams' lawyers to give this affidavit for their use in his habeas corpus appeal. I give this statement willingly and freely.

2. Terry Williams is my father.

3. I currently live with my mother in Milton, North Carolina. I am 13 years old and attend junior high school.

4. Although my mother and father have been separated for a long time, I have seen my father throughout the years when visiting with his family or my mother's family. I love my father and wish he was out of prison so that he could visit me. My father has been good to me and would give me money if I asked him or buy me a gift. He has never hit me or physically hurt me. I know sometimes he gets in trouble but he has never tried to get me involved in anything bad or dangerous.

5. I went to his trial in September 1986. I would have testified on his behalf and told the jury that my father has tried to be a good daddy to me, but, I was not asked to testify. I met my father's attorney for the first time at the trial. He didn't ask me any questions about my daddy.

6. From time to time my father calls me or writes to me from prison. He tells me that he loves me and misses me.

PETITIONER'S EXHIBIT 28

I have read the foregoing statements and/or they have been read to me, and they are true and correct to the best of my knowledge and recollection.

JENNIE WILLIAMS

Subscribed and sworn to
before me this 9th day
of April, 1988.

Frann J. Martorana
NOTARY PUBLIC

My Commission Expires:
March 27, 1992.

AFFIDAVIT OF JENNY LEE WILLIAMS

STATE OF NORTH CAROLINA)
) ss
COUNTY OF CASWELL)

I, Jenny Lee Williams, depose and state as follows,

1. I have been asked to give this affidavit by Terry Williams' attorney for use in his habeas corpus petition and I give this affidavit willingly and freely.

2. I currently live in Milton, North Carolina.

3. Terry and I were married in 1973 and we lived for approximately the first three years of our marriage in Java, Va. Those were relatively happy times. Terry worked tobacco and he worked very hard. I also worked tobacco for a while and also kept house in our log cabin. In 1975 we had a little girl whom we named Jennie. Terry loves her very dearly; she is the pride of his life.

4. While in Java, Terry spent a lot of time with my family. He would fish or play basketball or softball with my brothers and watch television with my father. He was also very close to my mother who considered him like a son. One bad incident I recall was the time my father hit Terry over the head very hard with a chair. Terry had not provoked the attack. He required several stitches at the hospital.

5. In 1976 Terry and I separated, however, even after that we were still fairly close and to this day we are still married. While separated, Jennie and I would visit Terry and his family often. Terry would love to see his daughter and he would spoil her with gifts or money.

6. I can not believe Terry would intentionally injure or kill someone. I have never seen Terry act violently toward anyone.

7. At the time of his capital murder trial in September 1986, Terry wrote to me and asked me to come to his trial and help if we could. I wasn't happy about exposing my daughter to the bad things people were apparently going to say about Terry but I thought it was very important for me and my daughter to go to the trial and help Terry in any way we could. At the trial I met Terry's lawyer, Mr. Motley, for the first time. I think Terry pointed us out and he came over and introduced himself to us. I asked him how the trial was going and he said something like "ok". That was the extent of our conversation. He never asked me or Jennie any questions about Terry. He never asked me or Jennie to testify. We both were willing to testify if he had asked us to do so.

8. Since Terry has been in prison, he has written or called myself or our daughter on numerous occasions. We both miss him and hope he will get out of prison someday. I would not feel threatened if he came back and lived near us.

I have read the foregoing statements and/or they have been read to me, and they are true and correct to the best of my knowledge and recollection.

Jenny Lee Williams
JENNY LEE WILLIAMS

Subscribed and sworn to
before me this 9th day
of April, 1988.

Francis J. Mantorana
NOTARY PUBLIC

My Commission expires:
March 27, 1992

AFFIDAVIT OF LAVERNE WILLIAMS

COMMONWEALTH OF VIRGINIA)
) ss
CITY OF DANVILLE)

Laverne Williams deposes and states:

1. I have been asked to give this affidavit by Terry Williams' attorney for use in his habeas corpus petition, and I give this affidavit willingly and freely.

2. I am 25 years old and Terry's youngest sister.

3. Though there is an age difference of approximately eight years between us, I have always felt close to Terry. When he lived at home, we would often garden together and walk to the store together.

4. Terry has never been a violent person. He has always been more likely to walk away from a tense situation than to let his anger get the better of him. His personality is pleasant and consistent. He starts conversations easily, smiles often, and always wants to know how I feel and what is on my mind. He occasionally becomes depressed, but never for very long.

5. Terry loves his daughter Jennie very much, and she loves him.

6. I have never known Terry to have a problem with drugs or alcohol.

7. Terry would sometimes ask me for money, but he never became angry if I could not give it to him. When I did lend money to him, he would pay back whatever he could.

8. After getting out of Chatham jail, Terry told me that he wanted to straighten himself out. He said that he hoped to have a stable life and a steady income some day.

9. Our family life was often difficult. Our father and mother drank a lot, and sometimes had violent fights. Dad would beat the children when he got drunk. When I was in my early teens, Dad finally quit drinking, stopped acting violently, and turned his life around. His drinking problem, and the behavior it caused, made life especially hard for Terry and my other brothers. They had no role model, no one to look up to.

10. We grew up in neighborhoods where drug use and crime are common. You never felt safe on the street. This created a lot of pressure on all the Williams children. We tried to survive as best we could.

11. I believe that Terry was forced or pressured into confessing to the murder of Mr. Stone. At around the time of the confession, he told me that the guards and the other inmates were giving him lots of trouble, and that he had been denied access to a doctor.

12. I cannot imagine that Terry actually committed the crimes for which he has been convicted. The Terry I know is not capable of doing such things.

I have read the foregoing statements and/or they have been read to me, and they are true and correct to the best of my knowledge

LAVERNE WILLIAMS

Subscribed and sworn to
before me this 9th day
of April, 1988.

NOTARY PUBLIC

My Commission Expires:
March 27, 1992.

AFFIDAVIT OF NOAH WILLIAMS

COMMONWEALTH OF VIRGINIA)
) ss
CITY OF DANVILLE)

I, Noah Williams, depose and state as follows:

1. Terry Williams is my younger brother, and his attorneys in his habeas corpus appeal have asked me to provide an affidavit. I do so freely and willingly;

2. I am a year older than Terry and grew up with him in Danville, Virginia. However, in 1985 and 1986, I was in the army and stationed at Fort Bragg, North Carolina. I currently live in Fayetteville, North Carolina. However, I still visit home often;

3. I left Danville to join the army in 1975 so I was out of the state in the army when Terry's various trials were held in Danville. However, I did get to speak to Terry's lawyer, Mr. Motley, during the appeal stage of Terry's conviction for the murder of Mr. Stone. We spoke for about 10 minutes. I asked Mr. Motley to explain to Terry all of his options. This was the first time I spoke with Mr. Motley;

4. Terry was mischievous as a child but I never saw Terry violent or vicious. Terry would do such things as sneak out of bed and stay out all night or sneak into someone's home and eat their food;

5. Terry would often be subjected to a beating from our father when he did something wrong. Sometimes the beatings would be real bad. Terry got more than his share of the beatings and much more than he deserved. Our father could also be very tough with a verbal lashing. It could be worse than the beatings;

6. Terry was so scared of the beatings that if he was a little late in getting home at night, he would try to stay away all night in fear of coming home and being beaten. Of course, that meant he would get even a worse beating when our father finally caught up with him;

7. Our father would often send the older brothers out to look for Terry at night. We would often find him in some of his familiar hiding places. We sometimes found him hiding under a house on Swanson Street or in a trunk by the side of a house in the neighborhood. He would beg us not to take him home because he was afraid of the beating he would get;

8. Notwithstanding the beatings he got from our father, Terry took our father's death very hard. He seemed to like having someone around to keep him in line;

9. Terry and our whole family were good friends with Mr. Stone. Terry often visited Mr. Stone and slept in his house. I never saw them fight;

10. I would have come home to testify on Terry's behalf if I had been asked to testify.

I have read the foregoing statements and/or they have been read to me, and they are true and correct to the best of my knowledge and recollection.

Noah Williams

Subscribed and sworn to
before me this 15th day
of January, 1988.

NOTARY PUBLIC

My Commission Expires:

_____, 19___.

AFFIDAVIT OF OLIVIA WILLIAMS

COMMONWEALTH OF VIRGINIA)
) ss
CITY OF DANVILLE)

Olivia Williams deposes and states:

1. I have been asked to give this affidavit by Terry Williams' attorney for use in his habeas corpus petition and I give this affidavit willingly and freely.

2. I am 37 years old and one of Terry's older sisters. There is an age difference of about four years between us.

3. As a child, Terry liked to play with other children. He was a normal kid until he fell off the school roof and hit his head. Somehow, that blow to the head changed his behavior. He started having problems and getting into more trouble.

4. When Terry was a small child, all the Williams children were taken from our parents and placed in foster homes. Mom and Dad were arrested and charged with neglect because of something which happened when they left us alone in the house one day. We managed to break open a bottle of liquor. A neighbor heard noise and called the police, who found us drunk and without supervision. After this, social services decided we would be better off in a different household.

5. In our first foster home, we were treated badly and were very unhappy. We were finally taken from this foster family and placed in a second home, where we were treated with kindness.

6. Mom and Dad eventually got their lives back together, and social services decided that we could go back home. We were away from our parents for about two or three years. I do not know how much Terry remembers about our time in the foster homes.

7. Mom and Dad drank a lot and sometimes had violent fights. This made home life hard even after the years in the foster homes.

8. I have never known Terry to have a drug or alcohol problem.

9. Terry has never been a violent person. I was shocked when he was convicted of murder. He is not the kind of man who is capable of doing such a thing.

I have read the foregoing statements and/or they have been read to me, and they are true and correct to the best of my knowledge and recollection.

OLIVIA WILLIAMS

Subscribed and sworn to
before me this 9th day
of April, 1988.

Francis J. Mastrama
NOTARY PUBLIC

My Commission Expires:
March 27, 1992.

AFFIDAVIT OF ORLANDO WILLIAMS

COMMONWEALTH OF VIRGINIA)
)
CITY OF DANVILLE)

I, Orlando Williams, depose and state as follows:

1. I am Terry Williams' older brother and have been asked to give this affidavit by his attorneys for use in Terry's habeas corpus appeal. I do so freely and willingly;

2. I am about two years older than Terry and grew up with him in Danville, Virginia. Terry went away to reform school at about age 11 or 12;

3. I never spoke to Terry's attorney, Mr. Motley. Nor did he or anyone else ask me to testify at trial. I would have testified if I had been asked. I currently live in Martinsville, Virginia and was living there at the time of trial;

4. Terry would get in trouble doing small things when he was young but I never saw him do anything violent nor did I ever see him attack anyone;

5. Terry would often stay out all night and be afraid to come home for fear of the beating he would get from our father. Our father could be very rough and deliver very bad beatings and Terry always seemed to get the worst of it. Terry would be so afraid of getting a beating that he would try to stay out all night. I and some of his other older brothers would often find him hiding under homes or in a box which stood beside a neighborhood house. He would often fall asleep in these hiding places;

6. Our whole family, including Terry, was friendly with Mr. Stone. Terry would often go to sleep at his house;

7. I recall seeing Mr. Stone in the summer before his death. His chest was bandaged and he told me he had hurt his back and side. I don't recall if he told me how he had hurt himself;

I have read the foregoing statements and/or they have been read to me, and they are true and correct to the best of my knowledge and recollection.

_____
Orlando Williams

Subscribed and sworn to
before me this _____ day
of _____, 1988.

_____
NOTARY PUBLIC
My Commission Expires:
_____, 19___.

*** Petitioner's Exhibit 34

REMARKS Terry Williams' social behavior has shown improvement, while his academic achievement has somewhat regressed. One day he can carry out any assignment, whereas the following day, he may lapse into daydreaming. This puzzling transition from one extreme to the other was evidenced in his California Reading Achievement Test score of 1.1, administered early in July, 1968. These results indicated that he put forth no effort and, therefore, fell far below his potential.

Socially, Terry has a normal peer and adult relationship for a boy of his age. He is somewhat talkative and active, but creates no special disturbances. Terry responds favorably to correction and seldom reacts in a hostile manner.

Terry is presently enrolled in our summer program. His progress remains the same.

Our plan for Terry is to continue working with him in our Remedial Program. Special Education is definitely recommended for this youth.

RECITATION PERIODS ARE 45 MINUTES IN LENGTH. PASSING GRADE OF THE SCHOOL IS D.

THE MARKING SYSTEM IS AS FOLLOWS:

A- OUTSTANDING
B- ABOVE AVERAGE
C- AVERAGE
D- BELOW AVERAGE
F- UNSATISFACTORY

DATE August 19, 1968

G. L. Stanley
EDUCATION SUPERVISOR

SUPERINTENDENT

ES 500

DANVILLE PUBLIC SCHOOLS
DANVILLE, VIRGINIA

HOME VISITATION FORM

Pupil's Name ...Jerry...Williams.....

Address .....

(In pencil)

Please write an informal report of visit to home. Some suggested points to consider are: home conditions, relationship between members of the family, attitude of parents toward school, problems of the child mentioned by parent, how teacher was received in home, economic status, etc. THIS REPORT TO BE FILLED OUT AFTER TEACHER VISIT AND NOT AT CHILD'S HOME. (Use more than one space if necessary.)

All Information Is Confidential

Date of visit: 2-20-61.. Teacher: ..Hughes Grade: ..P.P.I.. School: Grasty.

The children seem to be happy only when theyre in school and have things to enjoy with the other children. The parents show no interest in the school program nor the children. The children are without food and proper clothes often.

Date of visit: 4-22-62.. Teacher: ..Hughes Grade: ..P.P.I.. School: Grasty.

There have been general home visits & no avail in helping the child to get to school on time nor to attend regular. There are many home problems.

Date of visit: 3/13/62 Teacher: Layton Grade: P.P.II... School: Grasty

This children need special care. Their attendance is better, since it's late coming to school + without having any breakfast.

IN THE CIRCUIT COURT OF DANVILLE
COMMONWEALTH OF VIRGINIA

TERRY WILLIAMS,

Petitioner,

v.

J.D. NETHERLAND,
Mecklenburg Correctional Center,

Respondent.

AFFIDAVIT OF LIEUTENANT ANTHONY PARRISH

I, Lieutenant Anthony Parrish, having been duly sworn, do hereby state as follows:

1. I am a correctional officer at the Chatham Correctional Unit #15, Route 6, Box 50, Chatham, Virginia;

2. I have worked in the corrections field for 13 years;

3. I have been contacted by Linda J. Tarlow, an attorney for Terry Williams, and asked to give a statement regarding him;

4. I met Terry Williams when he was incarcerated at Camp 15 and supervised him while he worked in the kitchen;

5. Terry Williams was a good inmate. I knew him to be cooperative and well-mannered. I never saw him lose his temper. He was quiet by nature and did as he was told;

6. I believe Terry Williams never received any institutional charges at Camp 15. This is an unusual record for an inmate;

7. One incident I recall in particular is that another officer, Mr. Robinson, lost his wallet in the kitchen. Terry Williams found the wallet and returned it to Mr. Robinson. Terry

PETITIONER'S EXHIBIT 37

received a special letter in his file for his action, a copy of which is attached to this affidavit;

8. Terry never gave any problems to anyone at Camp 15, certainly not to me. I was very surprised when his lawyer told me that he was on death row for murder.

Lt. Anthony Parrish
Lieutenant Anthony Parrish

Sworn and subscribed to before me this 2nd day of June, 1995.

Charles B Crumpler
Notary Public

My commission expires:

March 31, 1999

ljt\tw\parrish.aff

COMMONWEALTH of VIRGINIA

C. R. WEBB
SUPERINTENDENT

[illegible]

[illegible]

January 31, 1985

MEMORANDUM

TO: Terry Williams, #133158

FROM: C. R. Webb, Supt.

SUBJECT: Letter of Commendation

Correctional Officer W. P. Robinson has brought to my attention that on 1-21-85 he lost his wallet while working in the kitchen. Officer Robinson reported that you found his wallet and returned it to him with all monies and other items still in place.

Your actions in returning this wallet intact demonstrated mature behavior on your part as well as good intentions. By means of this letter I hereby commend you for your actions and assure you that a copy of this letter will be made a part of your inmate record. Hopefully significant persons such as the Parole Board will be interested in reviewing such a letter.

CRW/ps

c.c. inmate file
file

Commonwealth of Virginia, City of Danville,--To-Wit:

To Any Police Officer of said City:

WHEREAS, C.L.Haraway, has this day made voluntary complaint and information on oath before me, the undersigned, of said City that Lulu Snipes Williams

on the 31st day of March, 1956, 195..., in said City, did unlawfully

Possesion of illegal whiskey

12 - 11 - x 1 Wis. - Va. 2.

6 - 1 - x-5 " 66.2W

THESE ARE, THEREFORE, in the name of the (Commonwealth of Virginia / ~~City of Danville~~) to command you forthwith to apprehend and bring before the Trial Justice Court of said City, the body of the said Defendant to answer said complaint and to be further dealt with according to law.

And you are hereby commanded to summon Haraway & Collie

to appear at the Trial Justice Court as a witness in the above case.

Given under my hand this 31st day of March, 1956, 195...

R. C. Shumaker

~~Clerk~~-Deputy Clerk-~~Complaint Officer~~

43048

*** Petitioner's Exhibit 38

Color W Sex M Age 31 Ht. 5'3" 120 Eyes Hair

Address 697 Beauregard St./City

Occupation None Married M Single

1609 V-40

COMMONWEALTH

{ V APPEAL

Lula Snipes Williams #5

TO MAY CO. 1957 (6TH)

~~1957 APRIL 29TH~~

FILED IN CLERK'S OFFICE

1957 MAY CO (14TH); CONSOLIDATED; JURY WAIVED; EVID HEARD BY COURT; FOUND GLTY; $10.00 FINE & 90 DAYS IN JAIL SUSP'D COND. O.B. 2 YRS (CONFINEMENT FOR NON-PAYMENT OF FINE & COSTS SUPERSEDED

Executed 2-26-57 Set For 3-1-57

Executed By Haraway--Talley Jr.

Jailed Jail Summoned

Date Bonded Bonded For

STATE FINES, ETC.

FINE	50	00
Costs: Clerk Corp'n Court	1	25
Jail Committal Fee		50
Warrant	1	00
Trial Fee	2	00
Auto fee		50
Commonwealth Att'ys Fee	5	00
TOTAL	60	25

3/1/57 - Guilty. Fined fifty dollars and cost. Ninety days in jail. Appeal noted.

March 1 1957

Judge

A COPY TESTE:
GERALD A GIBSON CLERK
BY Jean C Stephens
DEPUTY CLERK

Juvenile

Commonwealth of Virginia, City of Danville,—To-Wit:

To Any Police Officer of said City:

WHEREAS, T. C. Talley, Jr. Police Department, has this day made voluntary complaint and information on oath before me, the undersigned, of said City that Lula Williams, CF, 697 Beauregard St., City

on the 26th day of February, 1957, in said City, did unlawfully neglect her ~~[illegible]~~ infant childrenn, age 6 months, by violating Sec. 18-6 Code of Virginia. Amended to: neglect her infant child, Terry, age 1, by violating Sec. 18-6 Code of Virginia.

THESE ARE, THEREFORE in the name of the Commonwealth of Virginia to command you forthwith to apprehend and bring before the Juvenile and Domestic Relations Court of said City, the body of the said Defendant to answer said complaint and to be further dealt with according to law.

And you are hereby commanded to summon Haraway--Talley Jr., Police Dept.; T. E. Temple, City Manager; Nurse Allen, Health Dept.; M. T. Bennett, City Sergeant's Office; Dr. H. W. Harvey, 226 North Union St.

to appear at the Juvenile and Domestic Relations Court as a witness in the above case.

Given under my hand this 26th day of February, 1957.

Deputy Clerk
Juvenile and Domestic Relations Court

*** Petitioner's Exhibit 40

C&R-8

DEPARTMENT OF CORRECTIONS - ADULT SERVICES

PSYCHOLOGICAL SUMMARY CONFIDENTIAL

FILE NO.	NAME
133158	Williams, Terry

PSYCHOLOGICAL TESTS

INTELLIGENCE:
REVISED BETA NON-VERBAL IQ 86
OTIS Q-S VERBAL IQ _____
PERSONALITY: ~~16 PF TEST~~

FUNCTIONAL RATING BELOW AVERAGE
INTELLIGENCE CODE 2
BEHAVIORAL CODE 2

Bender Gestalt: House-Tree-Person

PSYCHOLOGICAL SUMMARY:

Williams was seen for psychological screening this date and is a 27 year old inmate of tested Below Average Intelligence whose previous psychological evaluations indicate that he functions within the borderline range of intelligence. It is noted in this regard that Williams currently appears to be functioning within the below average range and that this suggests that he has made gains in emotional development since the prior testing. He is currently serving an eleven year sentence for convictions of burglary and grand larceny and has a prior conviction for armed robbery for which he served approximately three years and was paroled from work release. It is noted that Williams appears to have experienced a traumatic, neglected childhood, that he had a number of problems in school and was committed to the state for a series of breakings and enterings as a juvenile. He obtained carpentry skills during the previous incarceration and hopes to obtain vocational training in food services in order to obtain employment on a more regular basis. He indicates that he was seen on a regular basis by a psychiatrist while at Beaumont. He has no history of self injury and no history of drugs or alcohol abuse.

Test and interview data this date are suggestive of an individual without ingrained criminal tendencies who lacks the coping skills necessary to function as an independent adult. He responds well to structure and appears to have made valuable gains in emotional growth in recent years but continues to show impulsive tendencies and a need for growth in the area of personal responsibility. He continues to be a good work release candidate and concern is expressed that this man could become institutionalized if imprisoned without opportunity for further growth and development.

Recommendation:

Assignment to Buckingham Correctional Center is recommended. He is not considered an escape risk and is not considered to be suicidal.

HISTORY OF HOSPITALIZATION ( ) YES: ( ) NO. RELEASE FORM SIGNED ( ) YES: ( ) NO.

INTERVIEWER Marsha Altizer, Chief Psychologist, BUCC DATE 4-25-82

Sister: Odessa Williams, age 22, lives at the family residence. She has a high school education and is single with no dependents. She has no known police record.

Sister: Laverne Williams, age 19, lives at the family residence. She is a student at Danville Community College and is single with no children. She has no known police record.

There is no record in this family of any mental illness. There is no known alcohol problem except for the fact that the subject's father was an alcoholic. Subject's brother, O'Harold Williams, was found guilty in 1974 of drug sales. There is no history, however, of any drug abuse in this family.

DOMESTIC AND ENVIRONMENTAL SUMMARY:

Terry Williams was born on September 11, 1955, in Danville, Virginia. He has lived his entire life in Danville and was raised by his parents. His father died in 1980. He has continued to live with his mother. During the years Terry was growing up, he had quite a few problems as a juvenile. He has been in and out of Juvenile Court from 1966 through 1971. He was on juvenile probation and was also committed to the State Department.

Subject states he has a good relationship with his brothers and sisters and also gets along fine with his mother at the present time. It should be noted, however, that in 1957 the subject was classified as a dependent and neglected child and was placed in the temporary custody of the Court. Terry was returned to the custody of his parents in 1959.

MARITAL HISTORY:

The defendant married Jenny Lee Childress in Chatham, Virginia, in 1973. They separated in 1976. His wife is 27 years old, has a high school education and currently lives on Colquohoun Street in Danville. They had one child, Jeannie Williams, age 3, who lives with his mother. The defendant stated that he used to make support payments but does not at the present time.

EDUCATION:

The last school subject attended was O. T. Bonner Junior High School from September of 1970 to February 10, 1971, at which time he was sent to Beaumont. He did not finish the seventh grade at Bonner. During this time the subject was in special education classes. The last grade completed was the sixth grade. Subject repeated the second and the sixth grades. Subject was assigned to junior high school during the 1969-70 school year because of his age but he was working on a fifth grade level. Subject currently functions intellectually on a borderline level.

EVALUATIVE SUMMARY:

Terry Williams has been sentenced to serve eleven years in the Virginia State Penitentiary by a jury on convictions of burglary and grand larceny. Subject has a lengthy prior record. However, most of his offenses were committed while he was a juvenile. He has been on juvenile probation and adult probation. He has also been on parole and finished his parole on August 11, 1982. The present offense was committed less than a month later on September 7, 1982. His prior Penitentiary number was 111995.

The defendant comes from a large family and apparently has not had much parental supervision. He has been committed to the State Department as a juvenile and apparently while growing up he just roamed the neighborhood both night and day. His former juvenile probation officer stated that subject had a rugged home life and had not had any supervision. Subject has a limited education and seems to function on a dull-normal or borderline mentality. His employment record shows that he has had numerous jobs but he doesn't stay with any one job for very long. Subject has been married and is now separated. He has one child which he does not support.

Concerning the present offense, subject places most of the blame on his companion, Calvin Eugene Swann. Terry states that he was just helping a friend when he got into this trouble. Williams has not accepted any responsibility for his actions in the present offense.

TENTATIVE PLACEMENT PLAN:

Subject's future plans are that after serving his time, he wants to go to a halfway house in Richmond and try to be on work release in the Richmond area. He indicated no future plans to return to Danville. If he does return to Danville, he would live with his mother, Lula Williams, at 202 Henry Street, with employment to be secured.

R. Ken Poteat, Jr.
Probation and Parole Officer

RKP/ac

Enclosure: Prior Record

[redacted]

DGL 806 Attachment A
July 1, 1981

#28

DEPARTMENT OF CORRECTIONS
ADULT INSTITUTIONAL SERVICES

Good Conduct Allowance Class Change Form

Inmate WILLIAMS, Terry Number 133158

Institution Buckingham Correctional Ctr. Housing Assignment

Old GCA Class N/A New GCA Class II Effective Date of Class Change 5-3-83

I. Recommendation ( ) or Change in Status ( ). (Check one and complete Part A or B)

A. Signature, Adjustment Committee Chairman _____ Date _____

B. Signature, ICC Chairman [signature] Date 5/3/83

If change in status, specify reason for change

RECEIVED
MAY 20 1983
PATRICK HENRY CORRECTIONAL

II. Warden/Superintendent Review

GCA Class Change is: ✓ Approved ____ Disapproved

5/5/83
Date

Fred L. Finkbeiner
Warden/Superintendent's Signature

DOC CL-20 (Revised)

INSTITUTIONAL CLASSIFICATION COMMITTEE REPORT

CASE NUMBER: 133158 INSTITUTION: HALIFAX CORRECTIONAL UNIT #23

INMATE NAME: WILLIAMS, TERRY

Hearing at request of: (XX) Inmate ( ) Adjustment Committee ( ) Director ( ) HEARING DATE: 11/08/84
(Check one only) ( ) Institution Administration ( ) CCB

I. ADMISSION AND OTHER DATA

Date of Admission: 3/17/83
Crime(s): BURGLARY, (2) GRAND LARCENY Date of arrival at present location: 9/21/83
E.D.: 2/21/88 PED: 4/08/85 Total sentence: 11 yrs. ____ mos. ____ da
DOB: 9/11/55 Detainer status: NONE Number of previous felony convictions: ONE
Custody status: B Medical status: A
Date assigned: 3/17/83

II. NATURE OF HEARING REQUEST (If due process hearing, attach copy of hearing notice and Due Process Hearing Check list

Type of hearing: (X) ( ) Custody Increase ( ) Custody Decrease ( ) Transfer ( ) Work/Study Release ( )

Transfer.

III. SUMMARY STATEMENT OF INMATE (Where applicable, include summary statement of witnesses and reporting officer ( ) see continuation

Two inmates threatened me over some drugs and I cannot return to the population. I would like to go to Unit #15, so I will still be close to my family.

IV. SUMMARY STATEMENT OF COMMITTEE AND RECOMMENDATIONS (Include rationale) ( ) see continuation

The committee read the letter subject wrote setting forth inmate's names that allegedly threatened him. Subject reported names of individuals that were involved in drugs at this Institution. An investigation revealed that information the subject submitted was correct and charges were brought against one of the individuals named. The committee recommends a transfer for subject preferably to Unit #15, in order to facilitate visitation privileges and in order to remove him from present situation.

Subject will remain on Protective Custody status until action is taken on committee's recommendation.

( ) see continuation

Members present: (1) [signature] /Chairman (2) [signature] (3) [signature]
Administration: ( ) Approval ( ) Disapproval Date 11-8-84 BY: _____
Title

CENTRAL CLASSIFICATION BOARD ACTION

RE: _____

( ) ICC Action Approved ( ) ICC Action Disapproved ( ) No Change In Assignment
( ) Transfer Approved To _____ ( ) Custody Recommendation Approved/Disapproved
( ) Case Set for Rehearing _____ By ( ) ICC ( ) CCB

RED to Unit 15 11/9/84

Frank B. Madsen for
James P. Mitchell, Regional Administrtator

598

Meeting Chairman | Supv. State Inst. Class. | Manager, CRU

DOC CL-20 (Revised)

INSTITUTIONAL CLASSIFICATION COMMITTEE REPORT

SE NUMBER: 133158 INSTITUTION: Halifax Corr. Unit #3

MATE NAME: Williams, Terry HEARING DATE: 8/21/84

Hearing at request of: (X) Inmate ( ) Adjustment Committee ( ) Director ( )
(Check one only) ( ) Institution Administration ( ) CCB

I. ADMISSION AND OTHER DATA

Date of Admission: 3/17/83 Date of arrival at present location: 9/21/83
Crime(s): Burglary Total sentence: 11 yrs. ____ mos. ____ days
D.D.: MD-2/21/88 PED: 1/8/85 Number of previous felony convictions: ____
DOB: 9/11/55 Detainer status: none known Medical status: A
Custody status: B Date assigned: 5/83

II. NATURE OF HEARING REQUEST (If due process hearing, attach copy of hearing notice and Due Process Hearing Check list.)

Type of hearing: ( ) ( ) Custody Increase ( ) Custody Decrease (X) Transfer ( ) Work/Study Release ( )

Inmate requested transfer.

( ) see continuation

III. SUMMARY STATEMENT OF INMATE (Where applicable, include summary statement of witnesses and reporting officer.)

Interested in a transfer to NCCC—interested in studying sheet metal work.

( ) see continuation

IV. SUMMARY STATEMENT OF COMMITTEE AND RECOMMENDATIONS (Include rationale)

ICC gave consideration to this request and the record. Williams is in the unit's RSA educational program and making progress. He has a good adjustment record overall; no violations. He has completed about 11 months on the unit, and is eligible for this transfer.

The committee recommends approval of this transfer.

RECEIVED
H. C. U. #23

(X) see continuation

Members present: (1) [signature] /Chairman (2) C L Parsons (3) Joseph L Coleman

Administration: (X) Approval ( ) Disapproval Date 8-22-84 BY: [signature] Title [illegible]

CENTRAL CLASSIFICATION BOARD ACTION

DATE: 9/5/84 (X) NO ACTION.

( ) ICC Action Approved ( ) ICC Action Disapproved ( ) No Change in Assignment
( ) Transfer Approved To ____ ( ) Custody Recommendation Approved/Disapproved
( ) Case Set for Rehearing ____ By ( ) ICC ( ) CCB

(X) CCB NOTES INMATE'S POSITIVE RECORD AT # 23; HOWEVER, RACIAL OF TRANSFERS TO NCCC WILL CAUSE LENGTHY DELAY. CCB WOULD LIKE OTHER OPTIONS.

[signature] [signature] [signature]
Meeting Chairman Supv. State Inst. Class. Manager, CRU

COMMONWEALTH of VIRGINIA

January 31, 1985

MEMORANDUM

TO: Terry Williams, #133158

FROM: C. R. Webb, Supt.

SUBJECT: Letter of Commendation

Correctional Officer W. P. Robinson has brought to my attention that on 1-21-85 he lost his wallet while working in the kitchen. Officer Robinson reported that you found his wallet and returned it to him with all monies and other items still in place.

Your actions in returning this wallet intact demonstrated mature behavior on your part as well as good intentions. By means of this letter I hereby commend you for your actions and assure you that a copy of this letter will be made a part of your inmate record. Hopefully significant persons such as the Parole Board will be interested in reviewing such a letter.

CRW/ps

c.c. inmate file
file

COMMONWEALTH of VIRGINIA

W. J. TOWNLEY
SUPERINTENDENT

Department of Corrections
Division of Institutional Services
Halifax Correctional Unit

November 27, 1984

Mr. C. Webb, Superintendent
Chatham Correctional Unit #15
Route 6, Box 50
Chatham, Virginia 24531

Re: Terry Williams
No: 133158

Dear Mr. Webb:

The above-named individual was transferred to your Institution upon alleged threats made against him.

Prior to leaving this Institution, he submitted information about drug trafficking within the Institution. The information given was investigated by Institutional authorities and proven to be correct. In fact, the Department Investigators have entered the case.

The information Williams submitted was certainly the main factor the Administration needed to stop a large quantity of drugs from entering the Institution.

I would ask that you relay to Williams our appreciation for alerting us to this situation. Not only did this show the concern he had for himself, but also the concern he had for others.

I would appreciate you making this a part of his file for future reference.

Your cooperation in this matter will be appreciated.

Sincerely,

W. J. Townley
Superintendent

WJT:an
cc:file

*** Petitioner's Exhibit 48

COMMONWEALTH of VIRGINIA

CENTRAL STATE HOSPITAL
P.O. Box 4030
Petersburg, Virginia 23803

DEPARTMENT OF
MENTAL HEALTH AND MENTAL RETARDATION

Telephone (804)-861-7000

August 11, 1986

Mr. E. L. Motley, Jr.
Attorney at Law
Masonic Building
Danville, Virginia 24541

RE: WILLIAMS, Terry
Reg. No. 104041

Dear Mr. Motley:

Enclosed, please find a copy of the reports to the Court indicating the opinions of Dr. Ryans and myself as to his competence to plead and stand trial and assist in his own defense. The full report, with reference to 19.2-169.5 and 19.2-264.3 is the opinion of both Dr. Ryans and myself.

Your client continued to maintain his innocence of the alleged crime of capital murder and insisted that his statement to the police did not represent a true occurrence, but rather disturbing dreams that he had. Nevertheless, it is our opinion that your client, Mr. Terry Williams, knowingly, willingly, intelligently and voluntarily gave his statements to the police. He denies now that he ever entered the house of the victim, although he says that he did enter two times to talk with the victim's daughter, Dee Dee. He claims that he called the police after the death of the victim in order to determine the victim's cause of death because the victim had always appeared healthy and your client could not believe that he had died of a heart attack.

In any event, your client does not claim that the alleged crime was due to defect of reason due to disease of the mind or defect of the mind so as not to know the nature, character or consequences of his acts or the difference between right and wrong. Neither does he claim that he was suffering from an irresistible impulse or loss of volition due to disease of the mind or defect of the mind at the time of the alleged crime or crimes. He claims, simply, that he is innocent, by reason of not having committed the crime.

A repeat Rorschach shows no signs of mental illness. It also shows no signs of hostility or aggression. It is, therefore, our opinion that, though there are no mitigating factors for your client (with refernece to 19.2-264.3 and 264.4) that his psychological make-up is such that there is a low probability that he would commit criminal acts of violence that would constitute a continuing serious threat to society. We are unable to determine (because your client will not tell us) whether and how much he was under the influence of marijuana at the time of the alleged crimes.

PSYCHOLOGICAL EVALUATION
Terry Williams - Outpatient
June 30, 1986

Sent to Hanover when he was about 12 or 13 for B&E's of stores and schools and taking bicycle; was there about 6 to 8 months and came home; after about 6 months, was sent to Beaumont for doing the same things; was there 6 to 8 months and came home, about age 17 or 18; went to the Job Corps in Cottonwood, Idaho; quit one time but returned and received a certificate in basic carpentry and maintenance, about 73; after this, married and worked in Dan River Mills and also at the same time in a bakery; was fired from the Mills for sleeping on the job; worked construction but was too slow; then worked in a tobacco warehouse.

Married Jenny Childress when both were 18; they have a daughter; they separated before he went to the pen in 76; there has been no divorce.

Was convicted of armed robbery in 76 of a person; pled guilty and received 8 years; did 4 years and made parole in 80; was convicted of B&E and GL of a house and received 11 years; claims that his co-defendant had asked him to move his belongings from his girl friend's house; the son of the owner of the house came back while they were there and beat the patient up; he made parole in 3 years and got out on 4/8/85; stayed with his mother; worked on and off in the railroad and, after the lay off, in roofing.

Was charged with robbery of a watch from a person on 3/28/86; has been in jail ever since; says he is innocent but found guilty even though the accuser never showed up in court and he was given 60 days on 6/16; however, while still in jail, on 5/25 in the morning, wrote a letter to the chief of police confessing some crimes; detectives came and took a statememt that afternoon; the patient now claims that his confessions were based on dreams that he had and that actually he is innocent of everything he confessed. He is charged with 2 auto thefts and 1 malicious wounding; he has not been charged with the murder he confessed to and the stabbing of the man whose house was burned.

He was questioned on roles and functions: your lawyer (E.L. Motley); what does a defense lawyer do (he supposed to convince the judge that I'm innocent); who is the CWA (Mr. Filler); his job (he is the prosecuting attorney; he convince the judge or the jury that the man is guilty ; tries to anyway); what does the judge do (he listen to the case and he decides the penalty); number in a jury (6 or 11); what do they do (they listen to both sides of the testimonies and they render (sic) their decision; guilty or not guilty); pleas (guilty or not guilty, all I know); have you heard of NGRI (like the dude was out of his mind; like he had been to a mental institution); if found not guilty (get to go home); if found guilty (they be sentenced); if found NGRI (they send them to a mental institution); plea bargaining (when they make a deal with the police; know some drug dealers and get a lighter sentence); appeal (means you're not satisfied with the sentence they gave you and you want another trial or whatever; want case reviewed to another judge)..

TEST RESULTS:

On the WAIS-R, he scored a Verbal I.Q. of 74, Performance I.Q. of 75 and a Full-Scale I.Q. of 73 placing him in the borderline level of intelligence; his scores were fairly even throughout and it is believed that his test scores adequately reflect his

PSYCHOLOGICAL EVALUATION
Terry Williams - Outpatient
June 30, 1986

TEST RESULTS CONTINUED:

intellectual functioning level; his reading is quite impaired; on the Bender-Gestalt, administered with a 10-second exposure and reproduction from memory, he showed no signs of organicity or brain damage affecting intellectual functioning; on the Rorschach, he showed no signs of organicity, psychopathology affecting thinking, affect or behavior, disorganization of thinking or deep depression; his responses were consistent with his intellectual functioning level and he shows some signs of impulsivity.

SUMMARY:

This 30-year-old black male is charged with 2 counts of auto theft and 1 of malicious wounding and has given statements to the police. He now claims that the statements are not valid because he was only telling them what he had dreamt. Both on interview and psychological testing, it is clear that the patient is malingering mental illness he tests at the borderline level of intelligence and it is believed that that is the level he is functioning in. It is believed the patient is competent to plead and stand trial and was competent at the time of the alleged crime or crimes and was returned to jail with the deputy who brought him.

Arthur Centor, Ph.D.

Arthur Centor, Ph.D.
Licensed Clinical Psychologist
Forensic Unit

AC/sw

Received: 6/30/86
Typed: 7/11/86

IN THE CIRCUIT COURT OF DANVILLE
COMMONWEALTH OF VIRGINIA

TERRY WILLIAMS,

Petitioner,

v.

CHARLES THOMPSON,
Mecklenburg Correctional Center,

Respondent.

Commonwealth of Virginia

County of Patrick ss

AFFIDAVIT OF DR. ROBERT S. BROWN, SR.

I, Dr. Robert S. Brown Sr., do hereby depose and state as follows:

1. I am a Forensic Psychiatrist currently in private practice in Charlottesville, Virginia. I am also a Clinical Associate Professor of Psychiatry at the University of Virginia School of Medicine. My resume is attached to this declaration as Exhibit A.

PETITIONER'S EXHIBIT 50

2. I have reviewed the following reports and records in the above captioned case:

(1) Clinical Evaluation of Terry Williams by Dr. Paul A. Mansheim, undated

(2) Medical Records, Central State Hospital, 7/29/86 through 8/11/86.

(3) Medical Records, Memorial Hospital, Danville, Virginia, 6/23/86

(4) Medical Records, Memorial Hospital, Danville, Virginia, 8/14/85

(5) Medical Records, Memorial Hospital, Danville, Virginia, 6/3/85.

(6) Medical Records, Memorial Hospital, Danville, Virginia, 9/23/88, Terry Williams treated for "hit in the head" and "passed out."

(7) Medical Records, Danville, Virginia, 9/9/82.

(8) Medical Records, Memorial Hospital, Danville, Virginia, 9/8/82.

(9) Medical Records, Memorial Hospital, Danville, Virginia, 6/27/80.

(10) Medical Records, Memorial Hospital, Danville, Virginia, 4/8/69.

(11) Report of Autopsy, Office of the Chief Medical Examiner, Western District, Roanoke, Virginia, 7/1/86: Decedent - Harris T. Stone.

(12) Certificate of Analysis, Bureau of Forensic Sciences, Western Laboratory, Roanoke, Virginia, 11/8/85. Examiner, Richard J. McGarry.

(13) Report of Investigation by Medical Examiner, Decedent, Harris Thomas Stone, 11/4/85.

(14) Trial Testimony of the following individuals who saw Mr. Stone's body the night of his death:
Garnett Bowman (pp. 170-280);
John Whittle (pp. 180-187);
Joseph White (pp. 187-189);
Jannadean Stone (pp. 189-208 and pp. 285-

286)
Gloria Jean Womack (pp. 208-212)
Officer J. T. Poteat (pp.217-220)

(15) Trial Testimony of individuals who examined or who were involved in examining the body of the victim in a professional capacity:
Jack Miller (pp. 221-232)
Capt. C. W. Howerton (pp. 232-234 and pp. 261-262)
Dr. Thomas Joseph Hardy (pp. 234-257)
Dr. David Oxley (pp. 262-285)

(16) Affidavit of Martha Hampton, Terry Williams' girlfriend

(17) Certificate of Death, Commonwealth of Virginia, Decedent, Harry Thomas Stones, 11/12/85 and amended on 2/13/86

(18) Virginia Department of Corrections Post-Sentence Report

(19) Terry Williams, Anonymous letter to police containing confession

(20) Terry Williams' confession, 4/25/86 at 4:35 P.M.

(21) Terry Williams' confession, 4/25/86 at 4:45 P.M.

(22) Terry Williams confession, 4/25/86 at 5:20 P.M.

(23) Terry Williams' confession, 4/25/86 at 5:49 P.M.

(24) Terry Williams' confession, 4/25/86 at 5:58 P.M.

(25) Terry Williams' confession, 4/25/86 at 6:14 P.M.

(26) Terry Williams' confession, 4/25/86 at 6:25 P.M.

(27) Terry Williams' Recantation, 4/28/86.

(28) Report of Dr. Arthur Centor, 6/27/86.

(29) Report of Dr. Arthur Centor, 6/30/86.

(30) Report of Dr. Arthur Centor, 8/1/86.

(31) Report of Dr. Arthur Centor to Defense Counsel, 8/11/86.

(32) Report of Dr. Arthur Centor to The Honorable James F. Ingram, 8/11/86

(33) Report of Dr. Arthur Centor, 8/22/86

(34) Handwritten Report of Dr. Arthur Centor, 9/9/86

(35) Report of Dr. Arthur Centor to Judge Ingram, 9/10/86, (typed and handwritten).

(36) Report of Dr. Arthur Centor to Defense Counsel, 9/10/86

(37) Report of Dr. Paul A. Mansheim, 9/16/86

(38) Testimony of the Following Witnesses who testified about Mr. Williams' competence or his future dangerousness in the sentencing phase of his trial:

(1) Dr. Arthur Centor, pp. 361-376 and pp. 682-695
(2) Dr. Miller M. Ryans, pp. 376-385 and pp. 672-682)
(3) Dr. Paul A. Mansheim, pp. 425-433, pp. 571-581 and pp. 584-590

(39) Terry Williams' Testimony in Suppression of Confession Hearing, pp. 401-424

(40) Affidavits of Bruce Elliott, Lavine Williams (Defendant's sister), Olivia Williams (Defendant's sister), Noah Williams (Defendant's brother), Orlando Williams (Defendant's brother), Jenny Childress Williams (Defendant's wife), Jennie Williams, (Defendant's daughter),

(41) School records

(42) Institutional records

3. In my professional judgement, the evaluations performed by Dr. Arthur Centor, Dr. Paul Mansheim and Dr. Miller M. Ryans, were superficial and inadequate and thus could not provide the foundation for their conclusions that Terry Williams was competent to stand trial, was of sound mental state at the time of the alleged offenses or his statements to the police or was a future danger to society.

4. For example, it is evident from Dr. Mansheim's report, entitled "Clinical Evaluation" which he performed as an

"Independent Evaluation for the Defense" that he spent a minimal amount of time with Mr. Williams. His two page report is little more than a summary of the Defendant's past criminal record. He devoted three and one-half sentences to the Defendant's developmental history and educational history and one sentence to his marital history. Furthermore, Dr. Mansheim failed to conduct a mental status examination which is considered by all psychiatrists to be an essential and crucial part of any psychiatric examination. Finally, Dr. Mansheim reached the diagnosis of "unsocialized aggressive conduct disorder." First of all, there is no such diagnosis as "unsocialized aggressive conduct disorder." There is a diagnosis correctly entitled, "Conduct disorder, undersocialized, aggressive" which has a diagnostic code of 312.00. On the accompanying sheet that Dr. Mansheim sent in with his evaluation, he circled Diagnostic Code 312.23 which has a diagnosis of "Conduct Disorder, Socialized, Aggressive." Either of these diagnoses is inappropriate in this case and neither of them is supported by anything in Dr. Mansheim's report. Conduct disorders are ordinarily included in disorders usually first evidenced in infancy, childhood or adolescence. I think that it is only fair to conclude, on the basis of the brief report prepared by Dr. Mansheim, that he did not spend a sufficient minimal amount of time with Mr. Williams despite the fact that the Defendant was charged with Capital Murder.

5. Dr. Centor, a Central State Hospital Psychologist, administered a battery of psychological tests to the Defendant, the first part of which was administered on June 30, 1986 and the following portions were administered while the Defendant was an in-patient at Central State Hospital between July 29, 1986 and August 11, 1986. In Dr. Centor's letter to Mr. E. L. Motley, Jr., Attorney for the Defendant, dated August 11, 1986, Dr. Centor said that the Defendant's Rorschach "shows no signs of hostility or aggression. It is therefore our opinion that, though there are no mitigating factors for your client (with reference to 19.2 - 264.3 and to 264.4) that his psychological make-up is such that there is a low probability that he would commit criminal acts of violence that would constitute a continuing serious threat to society."

6. Despite Dr. Centor's conclusion of "a low probability that he would commit criminal acts of violence that would constitute a continuing serious threat to society," he nonetheless testified at the Defendant's trial, as indicated on page 692 of the transcript of that trial of Capital Murder, "it is my opinion that the Defendant, Mr. Williams, shows a high probability of committing criminal acts of violence that would constitute a continuing serious threat to society...."

7. Dr. Centor went on to say in the same paragraph of the

transcript of his testimony at the Defendant's trial that his opinion was based on his psychological evaluation in addition to other things such as the Defendant's history and frequency of offenses.

8. Dr. Centor's psychological test battery is substantially inadequate in the evaluation of this particular Defendant based upon his history of two significant injuries to his head which are documented in medical records which this examiner reviewed. Dr. Centor failed to administer the Halstead-Reitan Neuropsychological Test Battery which is indicated for Defendants with a history of significant head injuries. Such a battery of tests in this examiner's opinion were highly indicated, would have shown a high impairment index and should have been performed in association with appropriate diagnostic radiographic studies including either the CT of the head or an MRI of the head of the Defendant.

9. Dr. Centor's battery of psychological tests failed to include academic measures, evaluation of memory functions, assessment of language functions and sensory perceptual examination. It is a well known fact that head injuries are often associated with impaired functioning of the brain which can be measured by an adequate battery of neuropsychological tests and structural damage to the brain which can only be measured by appropriate radiographic studies as mentioned above.

10. Dr. Centor found that the Defendant had a "borderline intelligence." As a matter of fact, the Defendant's IQ was found at the extreme low end of Borderline Intellectual Functioning based on the Defendant's responses to the Wechsler Adult Intelligence Scale - Revised. The Standard Error of Measurement for this examination has a score of 3 on Verbal Functioning and 4 on Performance Functioning. It is therefore just as likely that the Defendant is functioning in the Mental Retardation range of intelligence as opposed to the low end of Borderline Range of Intelligence based on the Standard Error of Measurement.

11. The limitations of the Wechsler Adult Intelligence Scale such as the Standard Error of Measurement was not described by Dr. Centor.

12. The Defendant was in jail for stealing a watch at which time he confessed on 4-25-86 without the presence of an attorney in a two and one-half hour period both to the instant crime and to others. This examiner raises serious question with the Defendant's capacity to confess based on his probable mental retardation, a history of head injuries, the absence of appropriate neuropsychological and radiographic studies to measure the extent of impairment based on his injuries, and the

failure on the part of his evaluators to determine his degree of suggestibility.

13. The Defendant "confessed" based on his self-report that he dreamt about the crimes in question. His description of his dreams suggests the possibility of serious neurological impairment inasmuch as his dreams frequently took on the characteristics of nightmares. He did, in fact, have a normal neurological examination and a normal electroencephalographic study. The EEG was "sleep deprived." The purpose of sleep-deprived EEG in this examiner's experience is to observe the stability of brain functioning during the delicate state of the brain between sleeping and waking. In other words, the purpose of the sleep-deprived EEG is to observe the patient falling into sleep repeatedly and the effects of falling from wakefulness into sleep on the brain functioning. In the case of the Defendant, while he did have a sleep-deprived EEG, there was no report of sleep occurring during the examination itself and thereby the test was invalidated. The report simply said that he experiencd brief episodes of drowsiness but there is no report that the Defendant actually fell asleep and therefore the sensitivity of the test was invalidated. On 8/11/86, the Central State Hospital Staff recorded, "EEG was traced without sleep recorded."

14. The Defendant was found to have a positive test for syphilis while he was at Central State Hospital. Syphilis may effect neuropsychological functioning. The extent to which syphilis has affected the Defendant's brain functioning has not been determined.

15. Dr. Centor testified at the Defendant's trial as indicated by transcript p. 687, that the Defendant "claimed that he was hearing voices and that he was having visual hallucinations too, but there are certain tests for these people who claim to hear voices and people who claim to see things that are not there, and on both of these tests, it showed that his claim was not substantiated or that it was not true, that his claim was not one that was based on reality." The examiner is aware of no "tests" to determine the presence of visual or auditory hallucinations short of a PET Scan, a highly technical largely experimental instrument which shows alternations in metabolism of the brain in some Schizophrenic patients who are undergoing psychotic episodes which include hallucinations. It is this examiner's opinion that Dr. Centor misled the jury by suggesting to them that there are, in fact, "tests" that are ordinarily used by psychologists or psychiatrists to determine the presence of altered states of thinking such as hallucinations. They simply do not exist and they are not used on a regular basis in forensic psychiatric evaluations but are more in the province of experimental research at this particular stage in the development of the behavioral sciences.

16. None of the examiners, including Dr. Centor, Dr. Ryans or Dr. Mansheim spent an adequate amount of time developing the Defendant's psychological background history. Had they done that, they would have learned that the patient had been badly beaten by his father as a child. They would have learned that he has a large number of siblings who were willing and able to testify to the Defendant's chaotic family background which, in this examiner's opinion, would have served as important factors in mitigation. There is no evidence of record available to this examiner that any member of the Defendant's family was carefully examined by the evaluators.

17. It is, therefore, this examiner's conclusion that:

(1) The Forensic Psychiatric and Psychological Evaluations of the Defendant were, at best, cursory and superficial;

(2) There was inadequate history and observation to determine whether the patient was competent to confess;

(3) There was an inadequate evaluation to determine whether the patient was competent to stand trial;

(4) There was inadequate evaluation to determine the Defendant's mental status at the time of the offense; and

(5) There was inadequate evaluation to determine the extent of the Defendant's mitigating circumstances.

18. It is, therefore, necessary that the Defendant be more adequately studied at an institution where the appropriate examinations can be administered. I am in a position to provide a Comprehensive Forensic Evaluation and I have negotiated with the University of Virginia Hospital where a complete neurological and neuropsychological study can be performed.

19. Owing to the requirement of highly technical studies which the Defendant's condition requires, it will be essential that he be examined in Charlottesville where psychological, neuropsychological and psychiatric examinations can be conducted in the examiner's office, a facility which is accustomed to the safe and secure management of forensic cases and where at least one other defendant in Mr. Williams' situation has been previously evaluated. Radiographic and other special studies will be performed at the University of Virginia Hospital which is located near the examiner's office.

I have read the foregoing statement and declare, under penalty of perjury, that it is true and correct to the best of my knowledge and belief.

Robert S. Brown Sr.

Robert S. Brown, Sr., Ph.D., M.D.
Diplomate, American Board of
Psychiatry and Neurology
Diplomate, American Board of
Forensic Psychiatry

Subscribed and Sworn to before me this 13th day of August, 1988.

Joann P. Rose

Notary Public

My Commission expires on May 3 1992

IN THE CIRCUIT COURT OF THE CITY OF DANVILLE
COMMONWEALTH OF VIRGINIA
COUNTY OF PATRICK

TERRY WILLIAMS Petitioner, v. CHARLES THOMPSON, Mecklenburg Correction Center, Respondent.	LP 88-81 HABEAS CORPUS

AFFIDAVIT OF
DR. ROBERT S. BROWN, SR.

I, Dr. Robert S. Brown, Sr., do hereby depose and state as follows:

1. I am a Forensic Psychiatrist currently in private practice in Charlottesville, Virginia. I am also a Clinical Professor of Psychiatric Medicine at the School of Medicine at the University of Virginia. I have previously provided two affidavits which, I understand, have been submitted to the Court on behalf of Petitioner.

2. As stated in my previous affidavit, I believe it is necessary to examine Terry Williams in a hospital in order to perform adequate neurological and neuropsychological examinations.

3. I did examine Mr. Williams at the Mecklenburg Correction Center on February 24, 1993. I did this upon the request of Terry Williams' attorneys who indicated that the Court had urged that, to the extent possible, we conduct an examination at the facility.

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4. During my visit with in February 1993 I conducted a two and a half hour forensic psychiatric session with Terry Williams and administered a battery of psychological tests.

5. While this examination of Mr. Williams was a start, it was incomplete (due to the inability to conduct examinations which require certain equipment) and inconclusive. My opinion has not changed that a much more comprehensive examination is needed. And, as I previously stated, the examination cannot be conducted at the correctional facility.

6. Specifically, the following is necessary to properly evaluate Mr. Williams' condition:

a. Neurological examination with electroencephalogram and CT scan;

b. Neuropsychological examination; and

c. Cerebral spinal fluid test for syphilis

7. These examinations and tests can be performed at the University of Virginia in a period of one full day.

8. As I previously stated, given Mr. William's history of head injuries and the possibility of organic brain damage, the neurological and neuropsychological examinations are critical. Moreover, the possibility that Mr. Williams suffered from untreated syphilis dictates a cerebral spinal fluid test.

9. I have read the foregoing and it is true and correct to the best of my information and knowledge.

Robert S. Brown, Sr.
Ph.D, M.D.
Diplomate, American Board of Psychiatry and Neurology
Diplomate, American Board of Forensic Psychiatry

Subscribed and sworn to before me this 18th day of November, 1993.

Deborah A. Hall
Notary Public

My Commission Expires: 6/21/94

IN THE CIRCUIT COURT OF DANVILLE
COMMONWEALTH OF VIRGINIA

TERRY WILLIAMS, Petitioner, v. CHARLES THOMPSON, Mecklenburg Correctional Center, Defendant.	LP 88-81 HABEAS CORPUS

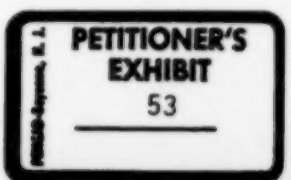
AFFIDAVIT OF DR. ROBERT S. BROWN, SR.

I, Dr. Robert S. Brown, Sr., do hereby depose and state as follows:

1. I am a Forensic Psychiatrist currently in private practice in Charlottesville, Virginia. I am also a Clinical Professor of Psychiatric Medicine at the School of Medicine at the University of Virginia. I have previously provided three affidavits which, I understand, have been submitted to the Court on behalf of Petitioner.

2. I have reviewed the affidavit of Brian A. Powers and have spoken by telephone with Linda Tarlow regarding new information concerning the consumption of alcohol by Lula Williams, mother of the Petitioner.

3. After reviewing this information it is my opinion that the Petitioner suffers from Fetal Alcohol Syndrome or Fetal Alcohol Effect. In my opinion it would be impossible for a pregnant woman to consume the amount of alcohol Mrs. Williams consumed during her pregnancy with the Petitioner, without adversely affecting the fetus.



4. It is my observation that Petitioner manifests many of the symptoms of fetal alcohol damage, including small stature, peculiar facial features, and low IQ.

5. In order to determine the extent and impact of Petitioner's brain damage, Petitioner requires the assistance of a forensic psychiatrist. Additionally, and dependent upon my findings, Petitioner may require the assistance of a neuro-psychologist expert in the area of alcohol damage to the fetus.

I declare under the penalty of perjury that the foregoing is true and correct.

Robert S. Brown

Dr. Robert S. Brown, Sr.

Sworn and subscribed to
before me this 11th day
of January, 1995.

Deborah A. Hall

Notary Public

My commission expires: 6/30/98

ljt\tw\brown.aff

Thomas L. Pinckert, M.D., FACMG
Clinical Geneticist

11624 Lake Potomac Drive • Potomac, M.D. 20854 • (301) 299-8378

MEDICAL GENETICS EVALUATION

Terry Williams
DOB: 9/11/55
Date of Evaluation: 6/10/95

Reason For Referral:

Mr. Terry Williams is a 39 year old African American male who is currently incarcerated at Mecklenburg Correction Center having been charged and convicted of capital murder in 1986. Mr. Williams is scheduled to have an evidentiary hearing on June 15 and 16, 1995 in state court in Danville, Virginia. He is represented by Ms. Linda Tarlow, an attorney with the law offices of O'Donoghue & O'Donoghue in Washington, D.C. who has requested that Mr. Williams undergo a medical examination by a clinical geneticist to determine and diagnose:

1. If Mr. Williams has the physical pattern and behavioral characteristics of an individual affected with Fetal Alcohol Syndrome (FAS) and how they might relate to his criminal charges.

2. If Mr. Williams suffers from any other genetic condition that would affect his ability to conform to the law.

Records reviewed:

Youth Services Record
Listing of Immediate Family Records
Public School Records
Correctional Records
Reports of Drs. Centor, Mansheim, and Ryans
Medical Records from Danville Hospital
Central State Psychiatric Hospital Records
Attorney's Notes from Interview with Wife and Daughter of Terry Williams
Post-sentence Investigation Report by R. Ken Potcat
Attorney's Notes from Interview with Probation Supervisor and Parole Officer
Four Affidavits of Dr. Robert S. Brown, Sr.

Affidavit of Williams G. Doss
Affidavit of Bruce Eliott
Affidavit of Debra Grant
Affidavit of Doretha Graves
Affidavit of Martha Hampton
Affidavit of Jimmie Joyce
Affidavit of Dr. Paul A. Mansheim
Affidavit of Richard Ofshe
Affidavit of Dr. Miller M. Ryans
Affidavit of Lois Whittle
Affidavit of Jeanie Williams
Affidavit of Jenny Lee Williams
Affidavit of Laverne Williams
Affidavit of Lula Williams
Affidavit of Noah Williams
Affidavit of Olivia Williams
Affidavit of Orlando Williams
Court Records of Lula Williams

Medical Evaluation:

Examination of Mr. Terry Williams on 6/10/95 at Mecklenburg Correction Center, Boynton Virginia

History

Mr Terry Williams is a 39 year old African American male who was the four pound product of a term pregnancy to his mother, Lula, age 30 and his father, Noah Sr., age 45, being born on 9/11/55 at home with the assistance of a midwife. Ms Williams had 12 pregnancies and 3 miscarriages with Terry being her seventh child. Ms. Williams indicates by affidavit that she had no prenatal care with Terry's pregnancy. During her pregnancy in 1955, she and her husband manufactured bootleg liquor and beer with Ms. Williams being arrested several times for bootlegging during that time. She notes that during her entire pregnancy with Terry, that she drank bootleg liquor beginning on Friday nights and continuing through Tuesday nights. Sometimes she would not drink liquor on Wednesdays and Thursdays. Sometimes she would drink liquor seven days a week. On days that she did drink, she drank heavily straight through from morning until night. She indicates that from 1958 until 1960 that all of her children including Terry were removed from the house and placed in foster care for neglect and allowing the children to drink bootleg liquor. Danville Juvenile

Court reports show that the children were removed on 4/1/57 and returned to the custody of the parents on 4/15/59.

Terry's father, Noah Sr., was a native of Greensboro, N.C. with a birth date in 1910. He attended school through the fifth grade. He was employed as a school custodian and also supported the family through the manufacture of bootleg liquor and beer. He was described by his wife and children as being a violent, abusive man who beat Terry with a belt after tying him to the bed. Terry's sibling indicate in their affidavits that Terry often would stay out all night in an effort to avoid his father's wrath. Noah Sr., died in 1980.

Terry's mother, Lula, also attended school through the fifth grade. Her health was described as not good and she worked in service for other African American families 1-3 days per week. Due to her husband's menial job and her health problems it seems that the family lived below the poverty level most of the time. She supplemented their food with a garden at home.

Terry attended school in reguiar classes until 6th grade then spent 2 years in Special Education. He failed primary period I and II in 1962-64 and was passed on in primary II after the second attempt. He passed grade 4, failed grade 5 and dropped out on his second attempt at grade 5 due to court action. He passed in Special Education in June 1969 and June 1970. He was described at making "very poor progress." School records indicate that he was promoted "because of his age." His grades were consistently poor and his reading ability was 5 years behind at age 13.

Mr. Williams had significant problems with the law as well as with school as he was growing up. His criminal history record reflects 23 charges from 15 incidents from 9/66 to 9/86 not counting the charges for which Mr. Williams is incarcerated. His charges range from juvenile offenses such as larceny of a bicycle, to falsely pulling a fire alarm, to destruction of property when he broke 25 windows. As an adult, Mr. Williams has been charged with breaking and entering, grand larceny, malicious wounding, robbery and capital murder.

His first charge was in 9/66 when he committed larceny of a bike. His records in 11/66 state, "Terry did not seem to understand probation and although he is always a very appealing likable fellow, he never actually responds to any conversation or seems to understand right from wrong to any great degree." In 1967 he was charged with disorderly conduct, throwing rocks through windows with 2 charges of aiding and abetting larceny of a bicycle. He was seen early on as a youth with difficulties making judgments or recognizing normal constraints.

Mr Moody of the State Department of Welfare states on 11/28/67:

> "Terry was seen as an extremely attractive Negro youth who had a very baby face and his stature was so small that he reminded one of a ten year old instead of a thirteen. Worker never saw Terry that he was not smiling as he seemed to enjoy the attention of others. Terry seemed extremely honest in talking about his past behavior and lacked apparent remorse for his actions. In fact, Terry said that his mother had told him to ask for things if he wanted them and if he found that he was not getting them he just decided to take them. He seemed to not have a good understanding of moral judgment and it would seem that possibly he has not been consistently taught the proper guidelines." ..."He is in need of consistent controls and limitations at this point before any other plan could be pursued."

When seen in 12/67 at the Mobile Psychiatric Clinic, Dr. Miller's psychological report found that at age 12-3, 6th grade education, his WRAT, Bender, and House-Tree-Person drawing indicated an IQ of 69, with a reading level of 3.3. He commented that,

> "Although Terry may be intellectually limited, his test results are not entirely consistent with defective intelligence. The possibility of a serious emotional disturbance and/or organicity cannot be ruled out, and retesting is recommended. Although there is no evidence of a visual problem in his folder, it was noticed that when asked to read, Terry held the WRAT only about 3-5 inches from his face. He also complained that he had difficulty reading the numbers on one of the Beta subtests. This problem should be investigated."

Further confirmation of Terry's educational and social problems were given by G. Stanley, Education supervisor at the Hanover School for Boys, Hanover, VA on 8/19/68 when he indicated:

> "Terry Williams' social behavior has shown improvement, while his academic achievement has somewhat regressed. One day he can carry out any assignment, whereas the following day, he may lapse into daydreaming. This puzzling transition from one extreme to the other was evidenced in his California Reading Achievement test score of 1.1, administered 7/68. These results indicated that he put forth no effort and therefore fell far below his potential.
>
> Socially, Terry has a normal peer and adult relationship for a boy of his age. He is somewhat talkative and active, but creates no special disturbances. Terry responds favorably to correction and seldom reacts in a hostile manner.

Our plan for Terry is to continue working with him in our Remedial Program. Special Education is definitely recommended for this youth."

In addition to the physical and verbal abuse that Mr. Williams suffered at the hands of his father, he stated during my examination of him that he was also sexually abused when he was 10 or 12 years old. He alleges that he was assaulted by an older man who picked him up and took him to an office building where he was forced to engage in inappropriate touching. This abuse supposed happened several times but Mr. Williams could not provide more details.

Mr. Williams married Jennie Lee Williams in 1973 and lived in Java, Virginia for 3 years where he and his wife worked in the tobacco fields. In 1975 they had a daughter, Jennie, whom Mr. Williams says has had a granddaughter. Jennie recalls the time with her father fondly and states he frequently gave her money and gifts. He never was violent or abusive according to his daughter. His wife, Jennie Lee indicated that she and Mr. Williams separated in 1976 but have not divorced. She indicated that she and Mr. Williams were still in communication and she would not feel threatened if he were released and lived near them. Mrs. Williams was not called to testify in her husband's capital murder trial though was willing to testify had she been asked.

Mr. Williams medical history is also significant for at least two occasions of severe head trauma. The first occasion occurred when Terry was approximately 10 years old when he fell back on his head. His mother does not think he has acted right since then. She took him to the doctor who said that he did not have a concussion but feels that "he needs a head doctor." He also received head trauma when Terry was hit over the head by his father-in-law. Mr. Williams had several witnesses who stated that he had done nothing to provoke the attack. He required several stitches for his head laceration.

Mr. Williams medical history indicates that he was found to test positive for tuberculosis exposure by a tuberculin skin test in 1967 for which INH chemoprophylaxis was prescribed. He was also noted to have tested positive for syphilis with a positive VDRL and positive fluorescent treponemal antigen. No mention of follow-up to either of these medical problems was found in the medical records.

Mr Williams currently is incarcerated in Mecklenburg Correction Center for being convicted of capital murder in the death of Mr. Stone, a neighbor of Mr. Williams. Mr. Stone was found dead in his bedroom in November 1985 with a blood alcohol level of 0.41 and several bruises on his torso (chest and back). The coroner examined the body and felt that the death was due to natural causes with alcohol as a contributing factor.

Mr. Williams was jailed for stealing a watch in March 1986 and held in the city jail for parole violation. While in the jail serving a 60 day sentence, he began to experience terrifying dreams. He related that he had a dream about the death of his friend, Mr. Stone. In his dream that he related to me during my 6/10/95 examination, he stated that he wished to attend a Michael Jackson concert. He was short of money and stopped by to ask Mr. Stone for two dollars. While there, he learned that Mr. Stone had tickets to the concert but would not let Mr. Williams have them. Terry said that in his dream he went out to Mr. Stone's outhouse and picked up a gardening tool that was like a hoe on one side and a pick on the other, "a mattock." Mr. Stone was very drunk at the time but Terry's dream has him strike Mr. Stone in the chest and on the back. When Terry supposedly touched Mr. Stone there was a great deal of blood that he cupped into his hands and held to his face "like a werewolf". He then picked up Mr. Stone's gold wallet and floated out of the room to the concert. As he was opening the concert door, he awoke from his dream and found himself in jail.

The body of Mr. Stone was exhumed some 8 months after death. Upon autopsy, cracked ribs and fluid in the chest were noted. Mr. Williams was charged with Mr. Stone's death, convicted, and he was given the death penalty for his crimes. Conviction was based in part upon a confession that was supposedly obtained from Mr. Williams, although this record was not provided for review.

Medical examination:

Appearance

The patient is a slightly statured African-American male, dressed in blue denim jeans, light blue work shirt, and white high-top basketball shoes. His hair is braided in rows and his skin color is dark. Skin texture is rough with slight acne. He has a mustache and goatee. He is friendly but slightly shy. He is alert and oriented x 3.

Physical Examination

HT 66" (25%tile) Wt 135 (40%tile)
Arm span 69.5" Lower segment 34"

Head examination - Head circumference 56 cm (75%tile with braids), normocephalic with a scar on the top left of the cranium

Ears - Right ear 6 cm long, Not low set, No posterior rotation, with a prominent antihelix
Left ear 6.25 cm long, Not low set, No posterior rotation, minor prominent antihelix

Eyes - Inner canthal distance 3.7 cm (> 2 SD above mean)
Intra-pupillary distance 6.5 cm (97%)
Outer Canthal distance 9.5 cm (< 1.5 SD below mean)
Rt palpebral fissure 2.7 cm (< 2 SD below mean)
Lt palpebral fissure 2.6 cm (< 2 SD below mean)

Face - There is evidence of prominent mid-facial hypoplasia, left greater than right. This causes the left eye to slant upward and to appear to be located higher on his face than his right eye. The left eye appears to be smaller than the right eye. He has strabismus of the left eye, externally. The right eye is mildly upwardly slanted. He had ptosis of the right lower lid and ptosis of the left upper lid

He has no evidence of complete left hemifacial microsomia as the mandible appears to be symmetrical bilaterally. However, the more prominent maxillary hypoplasia on the left leaves the left side of the mandible slightly more elevated on the left.

The nasal length is 5 cm from root to tip (1 SD < mean) and 4.3 cm wide. The base of the nose is slightly flattened and the nose is not deviated.

The philtrum is 1.5 cm long, very smooth and hypoplastic.

The oropharynx exam reveals a high arched palate with dental malformation and malocclusion. He wears a dental prosthesis for the left central incisor. Teeth are in poor repair with thin enamel.

Neck - within normal limits

Back - Upper thoracic scoliosis is present with rightward deviation. This is estimated at approximately 20 degrees.

Chest - circumference is 80.5 cm; internipple distance is 22 cm, pectus excavatum is present. Cardiac auscultation is within normal limits, heart rate is 72

Abdomen - within normal limits, non palpable liver, spleen or kidneys.

GU - Penis is circumcised, 11 cm long (approx. 25%tile) and 3 cm wide, Testicles are enlarged with the right 5.5 x 3 cm and the left 4.8 x 4 cms (both > 98%tile).

Extremities - Slender upper limbs of normal size, strength and tone.
Patient is right handed. A fine motor tremor is noted when the hands are outstretched. Limited external rotation (supination) is seen in both arms with right > left. Three small scars 1.5-2 cm in length are seen in the right antecubital area.
The legs appear to have normal bulk, strength and tone

Hands -The right hand palm is 11.5 cm, 3rd digit is 8 cm. The left palm is 11.4 cm, 3rd digit is 8.1 cm. Mild clinodactyly is seen on the right hand digits 2,3 & 5. Mild clinodactyly is seen on the left 2nd and 5th digit with more marked clinodactyly on the 3rd digit. Camptodactyly is noted on the 4th digit, left hand. The nails are hyperconvexed and somewhat spoon shaped on all ten digits.

Feet - The right foot is 26.4 cm long, hallux 5 cm, with a 2 cm longitudinal crease on the sole between the 1st and 2nd toes. Marked pes planus is seen bilaterally. The left foot is 27 cm long, hallux 4.7 cm with a 5.5 cm longitudinal crease on the sole between the 1st and 2nd toes. Mild camptodactyly is seen on the left foot digits 2 and 3 with clinodactyly on the 4th. Shoe size is 8.5 by history

Neuro - Deep tendon reflexes intact throughout, however rapid alternating movements were imprecise, hand to nose testing was slow and shaky, gait instability was noted with heel to toe walking. Hopping on one foot showed very poor balance with right showing poorer balance than left.

Psychological evaluation and IQ testing performed by Dr. Robin LaDue

Assessment:

Mr. Terry Williams is an incarcerated 39 year old African American male who was examined to determine if his mother's alcohol intake during her pregnancy left him with the physical patterns and behavioral characteristics of an individual affected with Fetal Alcohol Syndrome.

Fetal alcohol syndrome (FAS) is now recognized as the leading cause of mental retardation in the United States, followed by Down's syndrome and spina bifida. Since it was first reported in 1973 in the US by Jones and colleagues, knowledge about this devastating syndrome has grown rapidly. By 1979 more than 200 articles had been published on FAS. In 1981 the United States Surgeon General recommended that pregnant women or women considering pregnancy abstain from alcoholic beverages. By 1985, 2000 articles on FAS had been published.

Diagnosis of FAS is made from physical examination of the patient, supplemented with information regarding the prenatal exposure to alcohol, the birth record, medical history, and psychological testing to determine IQ and evidence of organic brain damage. A characteristic constellation of findings is necessary in an individual to make the diagnosis of FAS. FAS is diagnosed when: (A) patients had a positive history of maternal alcohol consumption during pregnancy; (B) growth deficiency of prenatal origin below the tenth percentile (height and/or weight) is present; (C) a pattern of specific minor anomalies that lead to a characteristic facies with short palpebral fissures, midface hypoplasia, smooth and/or long philtrum, thin upper lip are visible; and (D) central nervous system manifestations including microcephaly or history of delayed development, hyperactivity, attention deficits, learning disabilities (average IQ 67), intellectual deficits, tremulousness, poor sucking reflexes, abnormal muscle tone or seizures are noted. Patients exposed to alcohol in utero with some of the features of FAS but without evidence of deficiencies in all categories are identified as "possible fetal alcohol effect" (FAE).

A review of the findings in Mr. Williams case are all consistent with a diagnosis of Fetal Alcohol Syndrome (FAS). His mother admits that she drank heavily during her pregnancy with Terry. His birthweight at term was 4 pounds, far below the 3rd percentile. Recorded height and weight have remained consistently low (11/67 - 55" (8%), 68# (<5%); 3/71 - 63" (12%), 110# (8%)). His physical examination on 6/10/95 shows numerous minor anomalies including short palpebral fissures, myopia, strabismus, midfacial hypoplasia, smooth philtrum, ptosis, dental malocclusions, clino/camptodactyly, flexion contractures at the elbows, scoliosis, and an abnormal neurological exam. His medical record is filled with references to slow learning, borderline mental retardation, poor impulse control, lack of comprehension and understanding, and variable abilities to perform tasks from day to day. His formal IQ and psychological testing are consistent with reported IQs from 69 - 78, very simplistic, concrete thinking, and a reading level of approximately the 3rd grade. He was found to have difficulty attending to detail and understanding how consequences follow from actions.

Other typical behavior patterns seen in adults with FAS include lack of appropriate initiative, unresponsiveness to subtle social cues, and lack of reciprocal friendships. In summary, life-long adjustment problems are characteristic of most individuals with FAS and Mr. Williams' behavioral problems are consistent with these finding.

Given the body of literature available in the medical press at the time of Mr. Williams trial for capital murder, his physical stature and abnormal physical findings, plus his recognized learning disability, borderline intelligence, and lengthy history of legal problems secondary to an inability to understand the consequences following his actions, a diagnosis of Fetal Alcohol Syndrome

should have been entertained during Mr. Williams murder trial. His trial counsel was negligent, in my opinion, in not seeking qualified medical experts to assist in the testing and diagnosis of Mr. Williams' medical condition.

While Mr. Williams has classic findings of FAS, his genetic evaluation for other confounding causes of mental retardation and behavior abnormalities would not be complete without recommending that he be tested for Fragile X. Fragile X is the most common cause of *inherited* mental retardation, seen in approximately one in 1200 males and one in 2500 females. Males with Fragile X usually have mental retardation, a long face and prominent ears, and macro-orchadism, with these features being present in more than 80% of patients after puberty. A strong association is noted between the syndrome and autism. The speech pattern is cluttered with stuttering and perseveration on words or phrases. Language delays are common.

The diagnosis and naming of the Fragile X syndrome came in 1969 from the expression of a folate-sensitive fragile site at Xq27.3 induced in cell culture under conditions of folate deprivation. Testing for this syndrome can easily be performed from a peripheral blood sample sent to most genetics labs. Routine cytogenetic analysis are also indicated as constitutional chromosome abnormalities have been identified as frequently or more frequently than fragile X mutations in mentally retarded individuals referred for fragile X testing.

Lastly, several other medical issues should be addressed to complete Mr. Williams genetics evaluation. He should have a CT scan or MRI of his head to confirm findings of FAS that may be present such as microcephaly, abnormal ventricular formation, absence of the corpus callosum, etc., and to more fully evaluate his history of severe head trauma in the past. In addition, he should have testing to rule out the possibility of neuro-syphilis and tuberculosis as these two medical conditions are possible given his medical history. Finally, he should have urine sent for in-born errors of metabolism screening and a plasma aminogram performed to rule out any possibility of aminoacidemia.

Respectfully submitted,

Thomas L. Pinckert, M.D., FACMG
Clinical Geneticist

ROBIN A. LaDUE, Ph.D.
Clinical Psychologist
1500 Benson Rd. S., Suite 201 • Renton, Washington 98055 • (206) 277-5616

PSYCHOLOGICAL EVALUATION

Terry Williams
DOB: 9-11-55
Date of Evaluation: 6-10-95

Reason For Referral:

Terry Williams is a 39 year old African American separated male who was referred for testing by his attorney, Ms. Linda Tarlow. Mr. Williams has been convicted of capital murder and been sentenced to death. Ms. Tarlow is an attorney working on Mr. William's appeal. Her specific concerns were as follows:

1. The possibility of him having Fetal Alcohol Syndrome (FAS) and the implications of this on Mr. Williams' being sentenced to death;

2. The possibility of Mr. Willams having organic brain damage secondary to FAS and the effect such damage would have on his competency to confess and, therefore, the reliability of his confession;

3. The effect of organic brain damage on Mr. Williams' ability to form the intent to commit the crime for which he was convicted; and

4. Mr. Williams' ability to conform his actions to the requirements of the law.

Diagnosis:

Fetal Alcohol Syndrome, as per Thomas Pinckert, MD, 1995
Rule out Fragile X Syndrome as per Thomas Pinckert, MD, 1995
Rule out Post-traumatic stress disorder

PETITIONER'S EXHIBIT 60

Background Information:

Records Reviewed:

Youth Services Record
Listing of Immediate Family Records
Public School Records
Correctional Records
Reports of Drs. Centor, Mansheim, and Ryans
Medical Records from Danville Hospital
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Affidavit of Jenny Lee Williams
Affidavit of Laverne Williams
Affidavit of Lula Williams
Affidavit Noah Williams
Affidavit of Olivia Williams
Affidavit of Orlando Williams
Court Records of Lula Williams

Mr. Williams is the seventh of twelve children born to Noah, Sr. and Lula Williams. Mr. and Mrs. Williams were described as being "bootleggers" and severe alcoholics. Court records show Mrs. Williams was convicted of bootlegging in 1956. Mrs. Williams acknowledges drinking

heavily during her pregnancy with the defendant. It is reported that, in 1957, Mr. Terry Williams and several of his siblings were removed from the care of there parents due to severe neglect. The children were placed in foster homes for two years while the parents were in jail and after their release. The children were changed from one placement due to their complaints of the foster parents being "mean" and abusive. The second foster home is remembered fondly.

Mr. Noah Williams, the father, died in 1980. He was described as very violent, beating the children severely. This is particularly true in the case of the defendant. There is information available that states Mr. Williams was tied down on the bed and beaten with a belt by his father. There are also reports of emotional abuse by the father.

Mr. Williams, Sr. did work at menial tasks, e.g. a janitor, and both parent worked in a funeral home. Apparently, a major source of their income was from bootlegging. In later years, Mr. Williams, Sr. received an income from disability. However, the family seemed to live below the poverty level most of the time.

The defendant, Terry Williams, attended Special Education classes until the 7th grade. He has frequently been described as having limited and borderline intellectual abilities. He had significant difficulties in reading and arithmetic. A reading score of Grade 3.3 was obtained on the Wide Range Achievement Test (WRAT) when Mr. Williams was 13; he was already five years behind in his reading skills at this point in his life.

He dropped out of school around the age of 13 and later entered the Job Corp. Mr. Williams' grades were C's and D's with him failing several grades. It is not clear why he was passed on to the next level. His comportment was described by his teachers as inconsistent. A few specific comments are very telling:

"One day he can carry out any assignment, whereas, the following day, he may lapse into daydreaming . This puzzling transition from one extreme to the other was

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evidenced in his California Reading Achievement Test Scores..."

"Terry responds favorably to correction and seldom reacts in a hostile manner."

Mr. Williams' work history echoes his academic career. He has had difficulty maintaining any consistent employment. His jobs have been in the tobacco fields and other odd jobs. He seems to get along well with others on the job (see affidavit of Bruce Elliott and Jimmie Joyce) but seems unable to handle any significant amount of responsibility and/or independence in the job environment.

Mr. Williams' social skills were alternately seen as adequate and limited. He was described as having a "poor moral character," "not understanding right from wrong," "lacking in motivation," and having "limited insight and judgment." He did marry at around the age of twenty and is still married even though he and his wife have been separated for many years. There is one child from this union, a daughter who is now around twenty years of age. No specific reason was given for either the separation or the decision to not divorce.

Mr. Williams stated he was sexually abused by an older man when he was about 10 to 12 years of age. He said this man picked him up and took him to "some office building." He did not give many details simply stating "the man touched him and made Mr. Williams touch him." He said this happened several times. He could not give a reason as to why he kept getting into the man's car.

Mr. Williams has had a significant history with legal institutions. He was arrested as a juvenile for stealing a bicycle, falsely pulling a fire alarm, and breaking and entering. He spent time in juvenile institutions. Apparently, he did fairly well in these structured settings, having difficulties, again, when he is out and has to manage his own life.

A probation officer stated in 1966 that "Terry did not seem to understand probation and, although he is always a very

appealing and likable fellow, he never actually responds to any conversation or seems to understand right from wrong to any degree."

Adult offenses have included armed robbery, malicious wounding, and stealing a watch. He was with another person during the armed robbery and, according to his report, his "friend" planned the incident. He is currently on death row, awaiting execution, after a conviction of capital murder. Mr. Williams was charged with the death of a Mr. Stone, a neighbor. According to the information available, Mr. Stone was found early one morning in November, 1985, dead in his home. He apparently had a blood alcohol level of .41, several times the legal limit for intoxication. It was noted that he had bruises on his torso but, apparently, the coroner felt these were old and death was ruled from natural causes.

Mr. Williams stated he learned of the death of Mr. Stone from people in the neighborhood. Several months later, in April, 1986, Mr. Williams was serving a 60 day term for stealing a watch. According to the reports available and information given during the current clinical interview, Mr. Williams claimed to have had a dream regarding the deceased.

In this dream, as recounted to the present evaluator, Mr. Williams wanted to go to a Michael Jackson concert. He needed two dollars which he felt the deceased had. When he got to Mr. Stone's house, he saw Mr. Stone had tickets. Mr. Williams went on to say that, in the dream, he took a tool similar to an ax, and hit Mr. Stone in the chest. He recalls, in the dream, hearing the ribs crack and seeing the chest and stomach split open.

Mr. Williams said the dream continued with him turning the deceased over and hitting him on the back. He then said, in the dream, that he saw Mr. Stone had a glittering gold wallet that he, the defendant, took. He then said he saw himself, in the dream, floating away to the concert. Mr. Williams stated he woke up and was still in jail. His reporting of this dream was fairly consistent with the description available in the background information.

The body of the deceased was exhumed, broken ribs were found, and Mr. Williams was arrested. He was charged with capital murder, convicted, and sentenced to the death penalty. According to reports, Mr. Williams confessed to the crime. The contents of this confession were not provided to current evaluator.

Behavioral Observations:

Mr. Williams presented as a small, well built man dressed in prison clothing. He was gregarious and pleasant although fairly passive during the testing session. He was cooperative although he needed to have the directions to the various subtests repeated throughout the testing.

His speech was interesting. He was often unable to complete sentences and paragraphs without losing his train of thought and being prompted. He integrated information given by the examiner into his conversation in a manner that was unique. An example of this is as follows:

One of the tests administered to Mr. Willams was the scene of several men sleeping in the grass. Mr. Williams' response to this card was "They are tired form working tobacco." He was asked if he had worked tobacco. He said yes, for ten years. The examiner asked if, in fact, it was not only a year, Mr. Williams was quick to agree. It is not actually known how long Mr. Williams did work in the tobacco fields.

He was able to attend, in a fairly reasonable manner, to the tasks assigned to him. However, he had to be told the directions several times over. The more abstract the task and the more complicated the directions, the less able he was to complete it. He showed open frustration on one task, but, with prompting, went back to it.

Mr. Williams seemed honest and open in his responses to questions that were posed. He gave differing answers to the same questions but it seemed more that he could not remember what he had answered before or that he did not fully comprehend what was being asked than an actual

attempt at deception. He seemed to give directly dishonest information when asked about drinking while he was married. He denied such action even when the examiner pointed out that this had been documented in his records. The reason for this "deception" is not known. Certainly, no purpose was served by it. At times, it appeared Mr. Williams was answering as he felt was expected of him, even if his expectation was inaccurate.

Mr. Williams is quite growth deficient in height and head circumference. He has many of the facial and physical characteristics associated with Fetal Alcohol Syndrome. This diagnosis was confirmed by Dr. Thomas Pinckert of Georgetown University Medical School, Department of Genetics.

Tests Administered and Results:

Mr. Williams was administered the Wechsler Adult Intelligence Scale-Revised (WAIS-R); the FIRO-B; the Bender Visual-Motor Gestalt test; the Rorschach Inkblot test; and the Thematic Apperception Test (TAT). He was administered the Minnesota Multiphasic Personality Inventory-A (MMPI-A) by Dr. Robert Brown of Charlottesville, VA. An oral administration was done due to Mr. Williams' poor reading skills.

Mr. Williams' scores on the WAIS-R were as follows: Verbal IQ = 77; Performance IQ = 81; and Full Scale IQ = 78. These scores are in the borderline to low normal range. These scores are consistent with those previously reported. His Performance scores are only slightly higher than his Verbal scores. His short-term memory, abstracting abilities, and comprehension skills are compromised. He has a limited understanding of social rules and expectations.

Mr. Williams has difficulty attending to detail and understanding how consequences follow from actions. His problem solving skills are moderately compromised as is his general understanding of his environment.

Mr. Williams' drawings on the Bender Visual-Motor Gestalt test were immature with minor distortions and slight rotations. Placement was adequate. The distortions were not severe but may be indicative of mild to moderate organic damage.

His scores on the FIRO-B showed him to have a low need for inclusion but to give the impression of being sociable and gregarious. He is emotionally needy but apt to have superficial relationships rather than close friendships. Mr. Williams is more likely to be a "follower" rather than a "leader." He does not want control over others but would like more control over his own life.

Mr. Williams' responses to the TAT items were appropriate although somewhat concrete, superficial, and immature. He related many of the pictures back to his own life, e.g. not wanting to hurt his family, feeling tired from working in the tobacco fields, and wanting out of jail. Most of the people in his stories were loving and kind towards each other. No signs of hostility, aggression, or violence were noted.

These results were echoed in his Rorschach responses. Many of his responses were typical although some showed minor deficiencies in form and content. Again, no signs of aggression or hostility were seen; this is consistent with the information in Dr. Centor's 1986 report. Many of the responses contained human elements, often of cooperation. No overt signs of a thought disorder were noted.

The computer-generated program was thought to be valid although there was a pattern of "carelessness or inattention to content." The possibility of Mr. Williams not fully understanding the meaning of the items also exists. However, the interpretation will be presented.

His MMPI-A profile suggests Mr. Williams behaves in negative, impulsive, and socially unacceptable fashion. He may use alcohol and other drugs and display a variety of somatic complaints. In addition, he is apt to have anxiety, low morale, depressed mood, helpless, and feelings of condemnation. He may feel alienated from the world,

estranged from others, and misunderstood. He reports a preoccupation of feeling guilty and unworthy. In addition, he feels life is no longer worth living.

He is likely to exhibit superficial guilt and remorse and negative self-esteem following episodes of acting out behavior. However, as with many people with FAS, Mr. Williams does not appear to learn from his past mistakes and frequently repeats his problem behavior.

He endorsed a number of extreme and bizarre ideas suggesting the presence of delusions and hallucinations. Mr. Williams has claimed having these before but denied them to the current examiner. There was no overt evidence of a thought disorder on other testing results. He appears hypersensitive and fearful. This may lead to debilitation in social and work settings, particularly without appropriate structure and supervision.

The profile obtained by Mr. Williams is associated with feelings of acute distress when seen among people who are incarcerated. This distress is resultant from their own impulsive behavior. They may not fully participate in treatment. In Mr. Williams' case, however, this is as likely to result from his cognitive deficits as from his personality problems.

Summary and Recommendations:

Mr. Terry Williams is a 39 year old African American who was referred for testing by his attorney, Ms. Linda Tarlow. She was concerned about the possibility of Mr. Williams having Fetal Alcohol Syndrome and implications for his appeal. Mr. Williams is of borderline intelligence but his adaptive functioning appears far more compromised than his IQ would indicate. His abstracting and comprehension abilities are significantly affected as are his ability to plan, connect his action with consequences, and understand social rules and expectations.

Mr. Williams is diagnosed as having Fetal Alcohol Syndrome. The behavioral problems listed above are

consistent with the organic damage and frontal lobe deficits associated with prenatal alcohol exposure. This damage is permanent and severely impacts on an individual's daily, vocational, and academic functioning. Such as been the case with Mr. Williams.

Mr. Williams appears easily suggestible. He could not process complex directions and needed prompting to stay on tasks. He seemed eager to please and quite naive. His social demeanor seemed more consistent with an adolescent than a middle aged man. He gave inaccurate information when it would have been far more to his advantage to respond accurately but, at times, it seemed he had no sense that his information was false.

Mr. Williams was, in addition to his heavy prenatal alcohol exposure, severely beaten and abused by his father as well as being sexually abused. Mr. Williams himself and his wife both described him as having nightmares, often violent in nature. These nightmares are a common symptom of post-traumatic stress disorder (PTSD). It is not known if Mr. Williams has ever been evaluated for PTSD. If not, this should be done.

The following is in response to the questions asked by Ms. Tarlow:

1. The possibility of him having Fetal Alcohol Syndrome (FAS) and the implications of this on Mr. Williams' being sentenced to death:

Mr. Williams does have Fetal Alcohol Syndrome. This syndrome has been described in the literature for the past 22 years. It is well known that organic brain damage is part of the syndrome. Poor impulse control, a lack of comprehension and understanding, chaotic behavior, and an inability to predict the outcome of one's behavior are hall marks of FAS. Given Mr. Williams' family history of alcoholism, his mother's arrest for bootlegging, and the removal of the children from parental care due to neglect plus his lowered cognitive abilities and growth deficiency, Fetal Alcohol Syndrome should have been ruled out or diagnosed at the time of his first trial.

2. The possibility of Mr. Willams having organic brain damage secondary to FAS and the effect such damage would have on his competency to confess and, therefore, the reliability of his confession:

Mr. Williams is suggestible and very easily influenced. During the evaluation, he integrated elements provided by the examiner into his "recall." He was not able to predict the outcome of his behavior and is not likely to understand the implications of a confession. He has a rudimentary understanding of the charges against him and the legal process. He appears eager to please others; this is consistent with his concern over his dream and writing the letter to the sheriff to express these concerns. Mr. Williams appears to have difficulty always distinguishing fact from fantasy. This also makes his self-report subject to question. These problems are seen among patients with FAS at a significant level and are consistent with the frontal lobe damage associated with FAS.

3. The effect of organic brain damage on Mr. Williams' ability to form the intent to commit the crime for which he was convicted:

Intent often implies an understanding of the possible/probable outcomes of one's behavior. It indicates an ability to predict into the future and to have a comprehension of abstract concepts, e.g. cause and effect. Again, as with many people with FAS, Mr. Williams shows major deficits in these areas. His comprehension, abstracting abilities, and capability of understanding complex cause and effect are seriously compromised. He has difficulty connecting all but the most basic actions with their possible outcomes. These problems are, again, associated with frontal lobe damage due to prenatal alcohol exposure.

4. Mr. Williams' ability to conform his actions to the requirements of the law.

Mr. Williams' brain damage, resulting in impulsivity, poor understanding of cause and effect, low comprehension of social rules and abstract concepts, and difficulty in clearly differentiating right from wrong all make it very unlikely that he could willingly conform his actions to the requirements of the law. It is not that he is necessarily intentionally criminally inclined; more likely, it is simply that given the brain damage he has suffered, he will be easily influenced, not capable of understanding cause and effect except at the most basic level, and not be able to function outside of a structured, supervised setting.

Mr. Williams, despite the crime he is convicted of, does not show overt signs of hostility and aggression. He does not always know fact from fiction and appears easily influenced and eager to please. He will do well in structured, supervised settings. Such settings would minimize risk to the community should Mr. Williams' sentence be reduced.

Robin A. LaDue, PhD
Clinical Psychologist

IN THE CIRCUIT COURT OF DANVILLE
COMMONWEALTH OF VIRGINIA

TERRY WILLIAMS,

Petitioner,

v.

CHARLES THOMPSON,
Mecklenburg Correctional Center,

Defendant.

LP 88-81 HABEAS CORPUS

COMMONWEALTH OF VIRGINIA
COUNTY OF MONTGOMERY :ss

AFFIDAVIT OF RAY P. LUPOLD, III

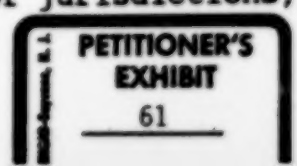
I Ray P. Lupold, III, hereby state and declare under oath as follows:

1. I am a licensed attorney in good standing with the Virginia State Bar and have been practicing law in the Commonwealth of Virginia since 1983. I am presently a partner in the law firm of Marks & Harrison P.C. I have been a partner in this firm since 1988.

2. I received my undergraduate degree from the College of William & Mary in 1979. I graduated in 1983 from the University of Richmond Law School where I received a J.D.

3. I was an Assistant Commonwealth's Attorney in Petersburg, Virginia beginning in 1984. In 1986, I became a multi-jurisdictional drug prosecutor for the jurisdictions of Hopewell, Chesterfield, Prince George and Petersburg until I entered full time private practice.

4. While in private practice I have served as a Special Prosecutor in a number of jurisdictions, including the Counties of



Chesterfield, Dinwiddie, Hanover and Prince George and the Cities of Hopewell and Petersburg.

5. Currently, my private practice has concentrated in criminal law where I spend approximately 75% of my time representing defendants or acting as a Special Prosecutor.

6. Since 1983 I have been responsible for representing the Commonwealth or a defendant in over 100 murder cases. Approximately 15 to 20 of these have been as a prosecutor.

7. Since 1983 I have been responsible for representing the Commonwealth or a defendant in approximately 20-25 capital murder cases. Approximately 5 of these have been as a prosecutor.

8. I have served on the Board of Directors to the Virginia Capital Representation Resources Center since 1994.

9. I have been an active member of the Virginia Bar District committee for four years and have served on numerous other organized bar related boards and committees.

10. I have reviewed several materials in the Terry Williams case including the complete trial transcript, the Amended Petition for habeas relief, and most of the affidavits and exhibits included in the petition and Mr. Williams' school, prison, social services and medical records.

11. Initially, I want to point out that a capital murder case is a unique case and puts a tremendous amount of stress on the defendant's attorney. For one thing, he or she is not just concerned about winning or losing the case but is saddled with the ultimate penalty - a loss of a life. Moreover, the attorney must

oftentimes push every defense to the limit and master not only criminal and constitutional law but also medical, psychiatric and social issues.

12. In addition the attorney must prepare for two trials. The first is the trial over innocence or guilt. However, equally, or in many cases more important, is the sentencing phase of the trial. Thus, the capital murder defense attorney has double the pressure.

13. My review of the records in this case clearly demonstrates inadequate preparation and performance by Petitioners' trial counsel in both the guilt and sentencing phases of this case. In several areas, trial counsel's performance fell below even minimal acceptable standards of competent counsel and prejudiced Petitioner in such a way that it is my opinion that but for these errors, it is more likely than not that the outcome of the trial would have been different. Petitioner's habeas attorneys have requested that I review some specific aspects of the performance of Petitioner's trial counsel and give an opinion as to both the level of competence of counsel and whether their conduct resulted in any prejudice to Petitioner. What follows are my comments and opinions on these specific areas.

14. The first issue I have been asked to comment on is trial counsel's handling of the confession. It seems to me that this is one of the most crucial issues of the entire case because the Commonwealth had no case without the confession. Trial counsel's failure to work with the psychiatric experts appointed by the Court

was a serious mistake. It is my understanding that the testimony at the habeas hearing from trial counsel and the experts themselves confirmed that trial counsel may have talked only briefly with Dr. Centor prior to trial. Thus they spent no time developing a theory that the confession may be false or that Petitioner may not have been able to separate fact from reality due to Fetal Alcohol Syndrome or some other defect. Ake v. Oklahoma provides that a defendant cannot meaningfully participate in a criminal proceeding where his mental condition is at issue without the assistance of a psychiatric expert. The Court makes clear that the expert is to help the defense organize its facts, present its evidence and effectively cross-examine the state's expert witnesses. In the instant case Petitioner's trial counsel squandered this opportunity by treating the experts as neutrals rather than as their experts. This conduct effectively deprived Petitioner of the expert contemplated in Ake and prejudiced him in his ability to have the confession nullified.

15. In addition, once trial counsel knew that the confession was not going to be admitted, it was crucial that they prepare an explanation for the jury. Without it the jury is left with a confession that the defendant does not deny or rebut. To not address the confession with the jury and give the jury a reason to doubt or discount it, in my opinion, was a sign by trial counsel that they were giving up on the guilt phase. There are several ways counsel could have nullified or at least mitigated the confession. First, they could have had the defendant testify that

he was innocent and that the confession was a compilation of his dreams given under stressful conditions. Second, they could have called the psychiatric experts to explain that innocent people often confess to crimes they do not commit. Third, they could have used the psychiatric experts to discuss the effects of Fetal Alcohol Syndrome and the fact that Petitioner may not be able to separate fact from fiction. In my opinion, to leave the confession unrebutted was to ensure a pleading of guilt and this clearly falls below the minimally acceptable standards of a competent attorney.

16. The second area on which I have been asked to comment is the issue of the cause of death. Rarely do you get a case such as this one where there is a real question as to the cause of death. It was imperative that the trial counsel obtain the assistance of an expert pathologist to assist them in presenting their theory on the cause of death and attacking the Commonwealth's theory. My understanding is that trial counsel have stated that they appreciated the importance of attacking the Commonwealth's theory on the cause of death and even thought about the desirability of having their own expert on this subject but that they did not think the Court would approve the appointment of one. It was inexcusable for trial counsel not to secure the services of a pathologist to assist them. In addition to seeking a court-appointed expert, they could have, on their own, sought a pathologist who would assist them for free or at a greatly reduced price.

17. To have entered the trial without the assistance of a pathologist was a crucial error that falls below the minimal

acceptable standards of a competent counsel. Moreover, because the question of cause of death was the best issue with which to raise a doubt in the minds of the jury, the failure to secure an expert pathologist, in my opinion, prejudiced Petitioner. This is made clear by the Affidavit of Kris Sperry M.D. submitted by Petitioner's habeas counsel. Dr. Sperry, an extremely qualified expert pathologist, states that the autopsy indicates that the decedent's injury more likely is more consistent with a fall rather than a blow from a mattock.

18. The failure of trial counsel to investigate or introduce evidence regarding the decedent's heavy drinking and proclivity to fall when he was drunk is also a crucial error. Trial counsel indicated that they knew certain people had seen the decedent with bandages around his chest several weeks or months prior to his death but that he thought it was too remote in time. If they had performed even the minimum amount of investigation required they would have learned that John Whittle, who testified about other matters at the trial as a witness for the Commonwealth, had helped the decedent into his house after he had taken a fall on the day of his death and heard him complain that he hurt his left side. This testimony alone is compelling. When it is combined with Dr. Sperry's affidavit testimony, it makes it more likely than not that this would have raised sufficient doubt in the minds of the jurors with regard to defendant's guilt.

19. Petitioner's habeas counsel have also asked me to give an opinion with regard to the competency of trial counsel in

presenting evidence on mitigation at the sentencing phase of the trial. The paucity of evidence submitted by trial counsel on this subject compared to the significant mitigating evidence uncovered by Petitioner's counsel, in my opinion, highlights the failure of trial counsel to perform at even a minimally competent level in representing Petitioner at the hearing.

20. As stated previously, a capital murder case is unique because it is really two cases in one - guilt and sentencing. From the moment the attorney is assigned the case he or she must start preparing for both phases of the trial. I understand that trial counsel testified at the habeas hearing that he started to prepare for the sentencing phase of the trial a week or two before the trial began. This is clearly inadequate preparation. There is no way an attorney can gather the documentation he needs to acquire and interview prospective witnesses in this short amount of time. Mitigation preparation should begin immediately upon accepting a capital case.

21. Trial counsel's lack of preparation is evident. They called a total of three witness - Petitioner's mother and two neighbors - to testify that Petitioner was a good person whom they did not perceive as a threat. While this testimony is not irrelevant, it hardly does the Petitioner justice. The jury up to the sentencing phase has only seen the defendant as a person who has committed a terrible crime. The prosecutor, if he does his job right, will present further evidence to show defendant as a criminal. It is imperative that the defendant's counsel show the

defendant as a human being. This usually includes a two-prong approach. The first is to demonstrate all the positive aspects of the defendant whether it be from family life, employment, schooling or even previous incarceration as a model prisoner. The second prong is to show the jury the hardships the defendant has had to endure to try to explain why the defendant ended up where he did and to attempt to evoke some sympathy or at least understanding for his predicament.

22. Both these areas were fertile ground for Petitioner's trial counsel. Yet they overlooked or ignored both of them. With regard to the positive aspects of Petitioner's life he had a wife and small daughter who would have described Petitioner as a loving father. According to their affidavits, although they were present at the trial and ready to testify, neither were called. In addition, Bruce Elliott, a certified public accountant and respected member of his community and church, had befriended Petitioner in 1978. Mr. Elliott describes Petitioner as a model prisoner who took pride in his achievements such as graduating from carpentry school. He believed that Petitioner was always striving to better himself despite tremendous odds against him. Although Mr. Elliott introduced himself to Petitioner's trial counsel and offered to do anything he could to help he was never called as a witness. This is inexcusable. The testimony of a respected professional in the community is not only probative, it is often considered a potential "home run" with regards to convincing a jury that a defendant has some worth.

23. There is also an affidavit from James Joyce, Assistant Superintendent of Patrick Henry Correctional Unit in Spencer, Va. He would have testified that Petitioner was a model prisoner while at the facility, meriting the "A custody" list. Indeed Petitioner's incarceration records, which apparently trial counsel never bothered to obtain, show Petitioner as a model prisoner with commendations. He was commended for returning, intact, a wallet that had been lost by a guard on the cell block. He was also commended for turning in a drug ring on his cell block. Mr. Parrish, a prison guard, would have testified to this effect.

24. With regard to the second prong of the mitigation testimony, trial counsel once again failed to obtain readily available information that would have shown Petitioner in a very sympathetic light. I have seen Social Service records which indicate that Petitioner was taken out of his home and placed in foster care with his brothers and sisters when he was only one year old. The police had found the parents and several of the minor children hungry, dirty and drunk. The house was unkempt and there were feces and urine in several places on the floor. The parents were arrested for neglect and the children were placed in foster care for two years. Moreover, the affidavits from family members indicate that Petitioner, as a child, was often tied and beaten by his alcoholic father and that he was so afraid to come home that he would try to stay out all night hiding under buildings or in boxes. There is quite a bit more of this information all going to show Petitioner's difficult childhood.

24. All of this material was readily available to Petitioner's counsel with just a little effort and investigation. I understand that Mr. Motley has said that the Social Service records were not discoverable at that time. He is mistaken. I was prosecuting cases at that time and know of no such prohibition. The failure to obtain this documentation or interview persons, such as Mr. Joyce and Mr. Parrish, falls below even the minimal level of competent legal representation. The failure of trial counsel to call known pertinent witnesses such as Petitioner's siblings, wife, daughter and Bruce Elliott, is inexcusable. In my opinion the prejudice to Petitioner is not hypothetical but real. Without sufficient mitigation evidence presented to the jury, they had no basis to choose life instead of death.

25. Similarly, trial counsel failed to represent Petitioner in a minimally competent manner when they failed to adequately communicate with the psychiatric experts appointed by the Court and failed to object to their testimony on mitigation and future dangerousness. I understand that trial counsel have stated that they primarily spoke to the psychiatric experts at the trial although Mr. Motley may have talked to Dr. Centor before the trial for about twenty minutes. This is totally inadequate. Defendant's counsel must work closely with these types of experts, supplying them with information, preparing their testimony and preparing for cross-examination of other witnesses.

26. In addition, under Virginia law in effect at the time of the original trial, expert psychiatric testimony could not be

introduced by the Commonwealth at the sentencing phase unless the defendant opened the door by introducing this type of evidence. Given the fact that the testimony given by Dr. Centor and Dr. Ryan with regards to mitigation and future dangerousness was extremely prejudicial to Petitioner's case, it was, in my opinion, below the level of minimally acceptable competence for trial counsel to permit such testimony to be given. The prejudicial effect of this error, in my opinion, was devastating. Having heard two experts testify that Petitioner was a future danger and having heard no meaningful evidence of mitigation, the jury was all but invited by trial counsel to vote for the death penalty.

27. Finally, habeas counsel has asked me to comment on the closing arguments by trial counsel in the sentencing phase. The closing argument in the sentencing phase is a crucial opportunity for trial counsel to give the jury a reason to save the defendant's life. In my opinion, trial counsel used their closing arguments to distance themselves from their client and assure the jury that they too thought the crimes Petitioner committed were horrible. Indeed they gave the jury several reasons to vote for the death penalty, including their admonitions that their client showed no mercy when he committed the crime, that there was no reason counsel could fathom as to why the jury should show their client mercy and that their client will keep going back and doing wrong, to name just a few. In my opinion, these closing arguments fell below the acceptable range of reasonably professional assistance. Moreover, in my opinion, it is more likely than not that these closing

arguments influenced the jury to give the death penalty whereas an effective closing argument would have convinced them to opt for life.

28. It is my opinion that the above incidents each fall below the acceptable range of competent assistance as set forth in Strickland v. Washington, 466 U.S. 668 (1984). Moreover, this deficient performance by trial counsel prejudiced Petitioner as it is my opinion that with even a minimum amount of effort or minimum level of competence with regard to any one of the aforementioned errors, the outcome would have been different.

Ray P. Lupold, III

Subscribed and sworn to
before me this 1st day
of September, 1995.

Joanne L. Keeve-Berry
Notary Public
My Commission Expires: 4/30/98